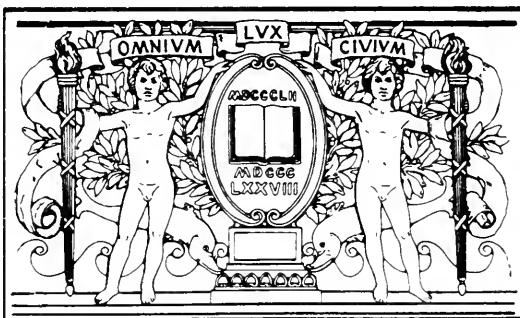


THE  
IRISH CONVICT SYSTEM  
BY  
BARON VON HOLTZENDORFF



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THE  
IRISH CONVICT SYSTEM,

MORE ESPECIALLY

Intermediate Prisons.

BY

BARON FRANZ VON HOLTZENDORFF.

Doctor of Laws, and Professor in the University of Berlin.

TRANSLATED FROM THE GERMAN.

DUBLIN:

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TO

HIS ESTEEMED FRIEND,

The Founder

OF THE NEW IRISH CONVICT PRISON SYSTEM,

CAPTAIN WALTER CROFTON, C.B.,

CHAIRMAN OF THE BOARD OF DIRECTORS OF CONVICT PRISONS IN  
IRELAND,

This Work is Dedicated

BY THE AUTHOR.



## TRANSLATOR'S PREFACE.

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THE following Treatise, which gives the views of an enlightened foreigner on one of the great questions of the time, is a striking proof of the deep interest felt in Germany for an experiment of vast social importance, instituted a few years ago in connection with the repression of crime in Ireland, and prosecuted with extraordinary success. The author, the Baron von Hollzendorff, is a Publicist of European reputation, who, judging the subject from a distance, and beyond the influence of local feeling, prejudice, or prepossession, must be considered as most likely to form a correct estimate of its value. In this work he has pointed out the merits which he believes the Irish system to possess, and the success which has attended it up to the date of the latest report of the Directors to which he had access (January, 1858). The rapid diminution of crime in Ireland to which he refers has, even since then, become more marked, the number of convicts in the government prisons having decreased, as appears by the last report, nearly 30 per cent., and although "5,036 have been liberated in Ireland from 1854 to December, 1859," but 218 males and 104

females were sentenced to penal servitude in Ireland during the last year. This success has been attended, as appears by that report, by a very material reduction in the expenditure of the Irish convict department—the annual cost being £28,000 less in the present year than 1856.

The Translator has endeavoured faithfully to clothe in English words the opinions of the author, without adoption or rejection of them ; a few notes have been added to the text merely with the design of clearing up obscurity or correcting mistakes on some local matters, of which the author, living in a distant country, and not having an opportunity of consulting documents connected with Ireland, had necessarily an imperfect knowledge. The author's notes are for the sake of convenience inserted in the text in brackets to prevent their being confounded with those by the Translator.

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## AUTHOR'S PREFACE.

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THE Irish Convict System, and its peculiar management of prisoners, attract at present considerable attention from the British public. The question has been taken up warmly by the press ; it holds, perhaps, the most prominent place among the subjects discussed at the yearly meetings of the National Association for the Promotion of Social Science ; and writers of great eminence have investigated it in a thorough and comprehensive manner.

But it is not to England alone that a correct knowledge of the results obtained in Ireland is of value. To those states of Germany, also, in which prison discipline has not yet been fully perfected ; it is even more valuable as affording data from which they may be enabled to decide the contest as to the superior advantages of the associated or the cellular systems of imprisonment. Scientific investigations into the nature of punishment, and the ends to be obtained by it, are at once transferred from theory into practice, when the Government undertakes, by means of the prison system, to apply in practice those principles which the science of criminal jurisprudence has developed with so much difficulty.

The deterrent and reformatory elements struggle for mastery in various ways in the mere rules of prison

management, and continue to be the watchwords of the advocates of the different contending prison systems. The principle of association in prisons is found in practice to be a system of punishment as little efficacious, as the indiscriminate use of separation in all cases, whether for the most insignificant offences as a prevention, or for the greatest crimes as a punishment. We must not, therefore, hope to attain a full solution of the problem immediately. The experience to which both parties refer, and the proofs which they adduce, are too much coloured by prejudice to enable us to arrive at a satisfactory decision by their means.

In this contest it is important to study, with the greatest attention, those systems which point out the special and real use both of separation and of associated labour for convicts, and which, for that reason, seem qualified to serve as a stage of transition from the present most defective state, to the realization of a final prison reform. Those systems form precisely a neutral ground where the contending parties may meet and unite to carry out, in practical emulation, the results to which the partisans of each exclusive method think they can lay claim.

The theory which opposes the admission of an intermediate system as a compromise, offers, at all events, much fewer advantages than that which favours its adoption. A strong proof of this is given in the Irish system, which agrees with the English one, in combining both cellular and associated imprisonment.

In Ireland, also, the first attempt has been made to connect the duty of the state to punish crime with the demands of society that the relative ends of punishment should be thoroughly and efficiently accomplished. It is clear, that besides satisfying the demands of justice, impri

sonment should be subservient to the purposes of deterring from crime, and reforming, by means of the discipline of the prison, which must be so measured out as to produce those results with certainty. Whether we may hope that the prisoner, after discharge, will avoid falling into crime, or whether a relapse is to be feared, is a question which, generally speaking, does not come within the province of the prison administration, because much depends on the position in which society will stand towards the individual who has undergone the punishment.

The attainment of the ends of punishment depends mostly on other circumstances, and upon quite different powers from those which the civil prison administration possesses. This truth is more often faintly perceived than plainly recognized; yet that it struggles for recognition is evident from the misconceptions and erroneous ideas which it has occasioned. One class of persons, knowing the inefficiency of civil coercion to effect the ends of penal repression, would reduce the duration of all imprisonment to an absolute uncertainty, thus sacrificing altogether to a reformatory or deterrent object the principle of justice, and entirely abandoning its rights. Others, considering that the reformation of morals is the peculiar vocation of the Church, require the state to transfer to it those functions which should never be surrendered by the civil power. Both these theories, one of which has already taken great hold on the public mind, would most seriously endanger the very existence of laws, and more especially degrade the penal code to a mistaken philanthropy or morbid zeal for reformation. The opposite view, which reckons securely on the effects of mere state coercion, is equally fraught with dangerous consequences, when it supposes that the discharged prisoner's future life will always

correspond with the good resolutions he brings with him from prison. Even those societies and associations which devote themselves to the care and supervision of discharged prisoners, can accomplish but little unless they are in connection with the prison authorities.

The institutions called intermediate prisons were first established in Ireland. The object for which they are intended, is to combine the seclusion of the prison with the bustle of active life, and thus make a preparation for liberty which requires a character widely different from that suited to prison walls. The best prisoner may be the worst workman after his discharge, and the most refractory convict may be best able to withstand the temptations of after-life. If the conduct of the individual afterwards in free life correspond with his prison character, it may be the effect of accident, or of his peculiar natural temperament, or else of a judicious prison discipline ; but the latter is most seldom the case. We may, as a general rule, apply to imprisonment and penal coercion that axiom which history teaches amongst its truths, " Individuals can, no more than entire nations, be educated to freedom by coercion." If all crimes proceeded from want of knowledge of what is right, or from a perverse will for evil, then the Irish intermediate prisons could be dispensed with. The elevation of the intellectual faculties is produced by instruction, which, combined with coercion, makes the convict more conscious of the restraint imposed upon him.

A refractory will may be broken by the immense depressing power of very strict separation ; and the ignorant and the vicious may be successfully restrained by the mere negative powers of coercion. There are others, on the contrary, who belong to the numerous class of those who

come under the power of the law, because they are not gifted by nature or education with the strength to resist the temptations of poverty, and because their moral weakness yields to the slightest pressure; neither the superior knowledge obtained by education, nor the pressure of severe prison discipline, can, under such circumstances, do more than influence, indirectly, the results which punishment is intended to accomplish. The strengthening of the powers of the will is much more requisite than mere restraint to enable such persons to endure the trials of life.

Mittermaier, who for years has defended cellular imprisonment with indefatigable zeal, and is even inclined to undervalue the results of associated imprisonment in the best conducted prisons, acknowledges, in his "Prison Reform," the importance of the Irish intermediate prisons, and has the merit of being the first who called public attention to them in Germany. Unfortunately it did not belong to the plan of his work to enter more particularly into details, or to show their connexion with the Irish system taken as a whole. A thorough explanation of the principal features of the system is on that account desirable, and shall form the subject of the following pages. Even in England there are still many who misunderstand the subject from want of knowledge of the necessary facts, and feeling no interest in it, they will not take the trouble to examine for themselves the very comprehensive annual Reports of the Directors of Irish prisons.

Although the intermediate prisons are themselves the central point of attraction to all friends of prison reform in England, it is, however, necessary for the proper understanding of the subject that we should introduce into this work an account of the other stages of punishment, and

the reasons for which they were established. It is thus only we can bring before the mind a picture of the entire system, and form a judgment of what part is necessary, and what can be dispensed with in the details.

We have no doubt that the reasons which called intermediate prisons into existence, and on which they are founded, will be more generally approved of when we have ascertained the causes which make the positive results of even the best prison system uncertain; and when we admit that social influences which work quite independent of the state are required to complete the effects resulting from penal repression, which must therefore endeavour to effect a union with those influences. It is equally certain that the administrative details, by means of which, in Ireland, the solution of this problem has been sought, would meet with considerable opposition from those who are accustomed to attribute exaggerated importance to trifles. Many deny that there is anything new in the Irish system. This, however, is generally the case with every improvement, the necessity of which, on account of existing deficiencies, had been long felt. Some, also, will most probably object that the very favorable results produced by the Irish prison reform are to be attributed to the political relations or the natural peculiarities of Ireland. They who in England have declared themselves opposed to intermediate prisons, have even attributed the success resulting from them in Ireland to the difference of the Celtic character as compared with that of the Anglo-Saxons.

Whether Germany may expect to derive advantage from imitating the Irish system, and thereby be assisted in its efforts to improve its prison discipline, is a problem the solution of which does not come within the sphere of

our present subject, and we do not enter into it, because the exclusive adherents of each opposite prison system would probably draw opposite conclusions from the proofs adduced.

The English system holds the same position between the opposing theories in Germany as the Irish intermediate prisons; but the Irish system holds that position in a much higher degree, and it combines the advantages which are claimed as belonging both to cellular imprisonment and to association. If we admit the truth of the opinion, that between imprisonment and liberty a stage of transition, a period of mental convalescence is required, in order to attain the various ends of punishment, we may thus establish, in the intermediate prisons, a point of agreement for the partisans of the opposite systems, who would otherwise, probably, paralyse each others efforts for a length of time.

But the strongest reason for giving the system of intermediate prisons a thorough trial has been suggested by the advocates of cellular imprisonment, when combating the opinion or the prejudice that a prisoner in separation is rendered unfit for society and social life, because he is not alone weaned from intercourse with bad companions, but also from those who belong to that society to which he is to return after his discharge.

The advocates for cellular imprisonment refer, with confidence, to the fact, that prisoners, after long imprisonment in separation, avoid intercourse with their fellows, and become accustomed to solitude; precisely for this very reason we may infer that the discharged convict must find himself awkward and uncomfortable in any society where he cannot have the benefit of his chaplain, humane warder, and intelligent governor. It is, therefore, only in con-

nexion with intermediate prisons that cellular imprisonment can find an opportunity to secure to itself that approbation of public opinion which is often unjustly refused to it, and which it nevertheless so urgently requires for effecting its objects.

FRANZ VON HOLTZENDORFF,  
DOCTOR OF LAWS.

*Berlin, July, 1859.*

## INTRODUCTION.

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WORKS TO BE CONSULTED TO UNDERSTAND THE IRISH  
CONVICT SYSTEM.

### A.—*Parliamentary Reports.*

1. Report of Commissioners on Convict Inquiry in Ireland, 1854.
2. First, Second, Third, and Fourth Annual Reports of the Directors of Convict Prisons in Ireland, Dublin, 1855, 6, 7, 8, submitted by the Irish Directors, Captain Crofton, Mr. Lentaigne, and Captain Whitty, to Parliament. (*Each consists of a general report of the directors, and special ones of each particular prison, including those of the governor, chaplains, teachers, medical men, inspectors, &c.*)
3. Rules for the Government of Irish Prisons, 1855.
4. Report on the Discipline of Convict Prisons for 1856 and 1857, and operation of the acts 16 and 17 Victoria, c. 99, and 20 and 21 Victoria, c. 8, by which penal servitude has been substituted for transportation. By Colonel Jebb. London, 1858. Page 90, and following.
5. First Report from the Select Committee on Transportation; together with the Minutes of Evidence ordered to be printed by the House of Commons, 27th May, 1856. Page 138 and following.

B.—*Works written by Captain Crofton, C.B.*

1. A few Remarks on the Convict Question. Dublin, 1857.
2. Memoranda Relative to the Intermediate Convict Prisons in Ireland, from their establishment in January, 1856, to September, 1857. Dublin, 1857.
3. Notes on Colonel Jebb's Report on Intermediate Prisons. Dublin, August, 1858. *Containing a refutation of the objections made by Colonel Jebb against the Irish prisons in his last Report of 1858.*

C.—*Works on this subject by other writers.*

1. Shipley (Rev. Orby). The Purgatory of Prisoners, or an Intermediate Stage between the Prison and the Public, being some account of the practical working of the new system of penal reformation introduced by the Board of Directors of Convict Prisons in Ireland. London, 1857. *This is the best book which has yet been written in England on the subject of Irish prisons, and has gone through several editions. The general teaching and style are full of religious zeal and correct argument.*

2. Ignotus. Purgatorial Purification of Irish Convicts, being remarks on a pamphlet, “The Purgatory of Prisoners.” London, 1857. (*A polemical pamphlet against the above-mentioned work of Mr. Shipley.*)

3. Hill (M. D.). A Paper on the Irish Convict Prisons, read at the first meeting of the National Association for the Promotion of Social Science, held at Birmingham under the presidency of Lord Brougham. London, 1857. (*This paper gives, in a short and clever review, an exposition of the principal features in the Irish system.*)

4. Carlisle (Earl of). Crimina's and their Reformation. An address delivered at St. George's Hall, Liverpool, October 12th, 1858, before the meeting of the National Association for the Promotion of Social Science, Liverpool, 1858.

5. The Management of Irish Convicts, judged by the opinions of the public press, and the testimony of home and foreign authorities. (*Irish Quarterly Review for January, 1858, also published separately as a pamphlet by Kelly, 1858*). It contains a reprint of the most important English and Irish newspaper articles on the Irish prison system.

6. Hill (M. D.). Suggestion for the Repression of Crime, contained in Charges delivered to Grand Juries of Birmingham, supported by additional facts and arguments, together with articles from reviews and newspapers, controverting the conclusions of the author. London, 1857.

7. Murray (P. J.). Not so bad as they seem. The transportation, ticket-of-leave, and penal servitude questions plainly stated and argued on facts and figures; with some observations on the principles of prevention, in a Letter addressed to Matthew Davenport Hill, Esq. London, 1857.

8. Organ (J. P.). Lectures on Educational, Social, and Moral Subjects, delivered to the inmates at the Smithfield Reformatory Institute, Dublin. Dublin, 1858. (*The subjects treated of in the lectures are air; water; plants; Canada and her resources; the ocean; temperance and self-control; Australia; life—its battle, and how to fight it*).

9. Mittermaier on Prison Reform, more especially the importance of, and the carrying out of the cellular system in connection with the reformatory principle, according to

the experience of the different prisons. Published 1858.  
Page 147, and following).

10. Behrend. History of Prison Reform in the United States, England, and Ireland. Berlin, 1859. (*Pages 155 to 180 treats on Ireland. The account is in general exact, as far as the simple reproduction of what is contained in Shipley's work and Parliamentary Reports up to 1856; but many essential points have been overlooked, especially the later works on the intermediate prisons. The whole book is useless to jurists on account of a multitude of errors in it on all subjects connected with legal knowledge.*)

# THE IRISH CONVICT SYSTEM.

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## CHAPTER I.

### PENAL SERVITUDE AND TRANSPORTATION.

THERE is no difference between England and Ireland with regard to the method of punishing crime. Penal servitude, which at present is the sole secondary punishment for grave offences, is common to both countries. Up to the year 1853 transportation was the only secondary punishment, and was awarded for periods varying from the entire life to a minimum of seven years ; between which and short imprisonments, not exceeding two years, lay a wide gap in which no intermediate term was to be found.

It had long become difficult to carry on the system of transportation in consequence of the opposition of all the British colonies, with the single exception of Western Australia, which, however, could only receive a very limited number of convicts. Transportation was therefore beset with so many difficulties that its final abrogation was accelerated though not occasioned by the discovery of the Australian gold fields.

Transportation, before its abolition, had become in most cases but a nominal punishment. In the very places where it was carried out it had received a number of heterogeneous ingredients, which were retained in subsequent penal legislation. Separate confinement, hard labour at public works in England, Gibraltar, and the Bermuda islands; conditional liberty on tickets-of-licence; all those had been already developed under the transportation system when the new punishment of penal servitude, was introduced under the acts 16 & 17 Vic., c. 39, [An act to substitute in certain cases other punishments in lieu of transportation. It is difficult in Germany to understand the arbitrary manner in which the punishment of transportation was previously carried out in England. The usual periods were so classified for convicts remaining in England that seven years' transportation was considered equal to two years' imprisonment; and transportation for life equal to thirteen-and-a-half years' imprisonment. Those short periods could be still further reduced for good conduct; so that the minimum period of seven years' transportation might be one year of imprisonment; and transportation for life, five years imprisonment.]\*

When these acts were passed it did not appear advisable to give up transportation altogether, because a numerous party in England, particularly the judges, had asked for its continuance; and even in the year

\* There is some misapprehension on the part of the author as to the shortness of these periods.—*Translator.*

1847, when the abuses resulting from it had reached their highest pitch in Van Dieman's Land, the committee of the upper house bore testimony in its favour. Penal servitude was therefore introduced as a concomitant punishment, whilst its connexion with transportation was regulated in the following manner. First—That transportation should remain the gravest punishment; to which, however, penal servitude for at least fourteen years and upwards should be considered as an equivalent. Secondly—That penal servitude should be substituted for all terms of less than fourteen years; so that four years of penal servitude should be considered equivalent to seven years awarded by the early laws of transportation, and for all other terms of transportation shorter periods of penal servitude should be proportionably substituted. For these last the issuing of tickets-of-licence was decided on. The act likewise contained a new and most comprehensive principle in the regulation, which empowered the crown to establish penal servitude in the colonial prisons.

It is evident even to the most superficial observer that the act of 1853 could only exhibit a state of transition in penal legislation. It contained a palpable inconsistency which is now severely felt. On one side, for example, the sentence of transportation was confined to the longer periods of time, and as a punishment for the graver offences only ; and, on the other, by the reduction of the lesser terms of transportation to still shorter periods of penal

servitude, it acknowledged that the latter was the severer punishment. This inconsistency more fully attracted public attention from the fact that at the very time numerous complaints of the act of 1853 proceeded from Western Australia, where the free population had applied for an importation of transported criminals at the moment when New South Wales and Van Diemen's Land had most loudly protested against them. That those complaints had an undeniable foundation was evident from the fact, that according to the act of 1853 it was exactly the worst and most dangerous criminals that were to be sent to the colonies from England.

In 1856 both houses of parliament appointed committees to examine into the working of the act. They came to an unanimous decision on the subject, and in their reports proclaimed the insufficiency of the legislative changes of 1853, acknowledged the superiority of transportation in comparison with penal servitude, and at the same time recommended the system of tickets-of-licence. The committee of the upper house besides carefully considered the possibility of establishing new penal colonies, and directed the attention of the government to Northern Australia for the purpose. At that time the public had almost altogether given up their former idea that the colonies were obliged to receive the refuse of the English prisons, but they had likewise learned to appreciate the great advantages of the old system of transportation. [Even Colonel Jebb himself acknowledges in his last report—

1858—the great superiority of the system of transportation so much assailed by him. He says : “ Transportation has for so long a period occupied “ the most prominent position in the penal adminis- “ tration of the country, and been regarded as the “ most severe and deterring of our secondary punish- “ ments, that its traditional advantages have been “ unquestioned.” See, on the other side, Adderly’s “ Transportation not Necessary,” London, 1853.]

What would become of all those convicts when discharged in England and obliged to encounter the difficulties which exist there in procuring constant employment even for free labour ? Under the old system this difficulty did not exist, as, whether the convicts arrived in the colonies reformed or not, at least this one great source of crime was removed, for they were almost constantly hired and well paid. To effect the absorption of convicts amongst the free population of England was nearly an impossibility, as it could be easily foreseen that in the existing low state of the labour market in England it would be impossible to solve the problem of prison discipline with the unassisted private action of patronage societies. The government were therefore placed in a difficult position between the demands at home to resume transportation, and the decided opposition to receive convicts in the colonies which did not feel any necessity for their labour in consequence of the influx of immigration, and who also considered it a point of honour to keep far from them the elements of crime. Even Western

Australia, the only remaining penal colony, was suited at most for the reception of six hundred convicts yearly.—[See evidence of late Governor of Western Australia, Fitzgerald, before the Committee of the House of Lords in 1856, and the despatches of the present governor, Kennedy, of the 13th April, 1859.]

The last decided alteration in legislation on this subject was effected by the act of parliament passed the 26th June, 1857. Transportation as an acknowledged legal punishment was thereby entirely abolished, and everywhere superseded by penal servitude, so regulated that the periods of time of both punishments should be exactly similar—the principle of tickets of licence, or conditional liberty, was defined for general application, and, at the same time, the principle already adopted in 1853 was strictly adhered to, according to which the crown had the right to determine the colonies, where if desirable, penal servitude awarded in England might be undergone. Instead of the old form of legal transportation, a means of removal of convicts to the colonies by the executive was introduced. The government is now empowered so to dispose of the fate of a convict that he may be made to undergo the imprisonment for his crime at a distance of several thousand miles from home, whilst another criminal, condemned to precisely the same punishment, may be confined at home and released at a later period on English ground, to which the convict transported beyond the seas will probably never return.

This regulation would place in the hands of the executive an important arbitrary jurisdiction, or the power of punishment independent of the judge, if this removal or transportation of the convicts, were considered as a deterrent, or as adding rigour to the punishment awarded for the crime; but this is not the case according to the expressed and defined opinion of the English legislature. The regulation according to which a convict undergoes his imprisonment in the colonies turns to his advantage, inasmuch as he acquires the possibility of future independence, a certain livelihood, the absence of strong temptations, and the social approach to the colonial population, which place him in a more favourable position than those who are released in England. This new means of disposal of the convict should therefore rather be considered as a species of emigration, promoted and supported by the government. [Colonel Jebb says in his report for 1858: "No plan "of release at home will ever regain the satisfactory "results of removal to a prosperous colony with a "ticket-of-leave; the convicts were morally better "off, and, allowing for occasional fluctuations in the "demand from over supply, there existed a more "steady employment, and what is of the greatest "importance, the means of dispersion." See page 24.]

In the consideration of the English and Irish prison management, this point should not be lost sight of. Whilst, for instance, on the one side in Ireland the ex-

treme difficulty for convicts to return to a well-ordered life is increased after their discharge; on the other side, in England, the government have a power at command to meet this disadvantage through the administrative transportation, by means of which they place convicts in a country where their labour finds a certain and constant market. How great these difficulties are is proved, particularly for England, by the patronage societies there being obliged to advance the expenses for the emigration of the discharged convicts.—With regard to this see Jebbs' report for 1858, page 24.

Great Britain is unfavourably situated in comparison with the Continent with regard to the condition of convicts released in the interior; but it has, at the same time, the means of meeting those obstacles by removal, while under sentence, to a Colony. The principal features of the plan according to which the criminal is to be treated when thus removed, are developed in a circular from Sir George Grey, of the 27th June, 1857. First, such convicts as are condemned to at least seven years of penal servitude, may be removed to a penal colony after they have undergone about half the period of their sentence in English prisons; secondly, tickets-of-licence may be given shortly after their arrival in Western Australia; thirdly, by further good conduct conditional pardon will be granted, on condition of settling in the colony.

The Irish prison system, on the other hand, having regard for the extraordinary social and domestic diffi-

culties with which discharged convicts have to contend, seeks its ulterior object in the later emigration of the individual, which is nevertheless left exclusively to the free will of each convict. We shall endeavour to show in the special account of the different stages of the system, in what manner it is sought to accomplish this object in Ireland. From all these considerations, we may conclude, that, in justly estimating the preponderating advantages which transportation offers, the fundamental idea of this new penal system is easily recognized to be, that the problem of penal repression is rather to be solved in the colonies than in Great Britain. By the act of the 26th of June, 1857, the essential improvement was at last introduced, by which, deviating from former laws, sentences of penal servitude should also be admitted for periods of three years. According to the account already given of the state of former English legislation, exclusively sentencing to transportation, and according to the Act of 1853, which introduced penal servitude along with transportation, and the later Acts, viz., the abolition of transportation by the statutes 20 & 21 Vict. c. 8, prisoners detained in Irish Convict Depôts are divided into the following classes: first, those who were condemned to transportation before 1853, and, in consequence of real obstacles, were not transported; second, those who, according to the Act of the year 1853, statutes 16 & 17 Vict. c. 99, were condemned to penal servitude, and according to the regulations in force under that

Act are not eligible for a remission of part of their sentences ; third, those under the Act of 1857, 20 & 21 Vict. c. 8, who were sentenced, in lieu of the term of transportation, to a similar period of penal servitude, and who are to be discharged on tickets-of-licence. The last class will, unless other changes be henceforth introduced into legislation on the subject, form the only one for the future. In 1857, the last year in which transportation could be decreed, the Courts of Justice in Ireland sentenced 27 persons to transportation and 389 to penal servitude ; of the latter, the greatest number were awarded periods of four years [255] ; the minimum period of three years was in proportion seldom adjudged [60 cases].

It is foreign to our present subject to examine what crimes are punished by penal servitude in Great Britain, or in what relation the amount of punishment stands with regard to the regulations in force in Germany ; we may, however, as a general rule state, that the measure of punishment of the English laws neither knows the many degrees which have been developed in the penal codes of Germany, by the principle of making punishment milder in certain cases, nor the consideration of extenuating circumstances in each individual case, which, in the greater part of the continental states, have been so carefully developed. The result of this principle is a great severity in many instances of crimes against property, which are generally punished with long imprisonment, where according to the penal code of the greater number of German states

the least severe kind of imprisonment, and only for short periods, would have been awarded. In England an appeal to necessity is not allowed. “In this country, especially, there would be a peculiar impro-  
priety in admitting so dubious an excuse, for by our laws such sufficient provision is made for the poor by the power of the civil magistrate, that it is impossible that the most needy stranger should ever be reduced to the necessity of thieving to support nature.” See *Blackstone's Commentaries*, vol. iv. c. ii. sec. 6. This reference to the excellence of the poor laws, and the conclusion drawn therefrom, was in the highest degree unsuitable for the time of the Irish famine. Theology, which always, in England, likes to be employed in criminal questions, is particularly zealous to recommend a puritanical severity according to the Old Testament. It is not difficult to arrive at such a conclusion where there is a deficiency of legal knowledge. Shipley, amongst other assertions, lately made the following, page 29, “whether crime proceed from irresponsible madmen or incorrigible criminals,” it makes no difference with the parties as to punishment. “Irrespective of the cause, the effect of criminal acts must be visited with the terrors of justice.”

## CHAPTER II.

## THE IRISH PRISON ACT AND ITS RESULTS TO THE COMMUNITY.

THE Irish Prison Act, 17 & 18 Victoria, chapter 76, forms the basis of the present system. Besides regulating the administration of the convict depots, it specifies a number of punishments for prison offences, some of which are violations of discipline, and others are of a serious criminal character, such as mutiny, and escape from prison.

This Act, which repeals the former Irish Prison Act, 7 George IV. chap. 74, is divided into thirty sections. The most important of these are contained under the following heads:

First.—The Lord Lieutenant sets apart and appoints places, either on land or on board vessels provided for the purpose, for the custody of prisoners under sentence of transportation or penal servitude, to be considered “Convict Prisons.”

Second.—The Lord Lieutenant may appoint a board of management of not more than three persons, with such salaries as the treasury shall approve, who shall form a corporation, subject to the directions of the Lord Lieutenant, under the name of “Directors

of Convict Prisons for Ireland." In this capacity they have unlimited powers to make contracts for the clothing, diet, and other necessaries for the maintenance and support of the convicts.

Third.—The Directors shall, during the month of March in each year, report on the state and management of the prisons, such report to be laid before both Houses of Parliament.

Fourth.—The Lord Lieutenant may appoint or remove at pleasure such officers as are necessary for the service of the prison (chaplain, medical officer, &c.). He regulates the amount and form of security to be given, when required and also appoints the governor of the convict dépôt.

Fifth.—The Board of Directors may make and alter the rules for the regulation of convict prisons, subject to certain conditions.

Sixth.—The working hours of the convicts must not exceed twelve daily.

Seventh.—No person except judges of superior courts of law, judges of assize, and such other persons as are authorized by the Directors or by the rules, shall hold communication with the prisoners.

Eighth.—The governor of the prison is held responsible for the safe custody of the prisoners delivered to him, and has certain powers incident to the office.

Ninth.—In case any convict shall be guilty of repeated offences against the rules of the prison, the Directors may order the offender to be punished by

close confinement for any term not exceeding one month, or personal correction.

Tenth.—Escape from prison is punished by an addition of two years to the term of his sentence; attempt to escape by an addition of one year.

Eleventh.—Every person who shall rescue a convict, or who shall aid in any such rescue, shall be guilty of felony. Carelessness of a prison officer in allowing a convict to escape, is considered a misdemeanor, and punished as such.

Twelfth.—Directors of prisons or any one of them may act within all convict prisons as justices of the peace, with all the rights and powers of that office, and all Acts of Parliament referring to justices of the peace apply equally to them.

The leading features most apparent in this Act consist, first, in the Irish system being independent of that already established in England; and, secondly, in the very powerful centralisation of the administration which is almost entirely placed in the Board of Directors. This Board is not only a Board for superintendence, but also one of direct executive administration, with powers of disciplinary punishment, to which judicial functions are added.\* Those officers of the Irish prisons who bear the title of Governor, corresponding with the German Directors of prisons, exercise, in comparison, very limited powers. It is not our intention here to examine

\* The English and the Irish Board of Directors are similarly constituted.—*Translator.*

whether this form of management is to be recommended ; we must not, however, forget that in Ireland an entirely new mode of administration for the government of prisons had to be established, and for this purpose a strong and central direction was urgently required. In accordance with the Irish Prison Act, the Board of Directors consists of three members, including the chairman, Captain Crofton. [At present the Board includes, besides him, John Lentaigne, Esq., and Captain Whitty, the latter of whom had previously rendered important services in the management of the large prison at Portland. During the first year his place was occupied by Captain Knight]. Captain Crofton, as a member of the Government Commission, appointed in 1853, to inquire into the state of the Irish government prisons, had acquired an accurate knowledge of the subject, and is now reckoned amongst the acknowledged authorities on prison management in England. In order that we may estimate the working of the system established by him, and its effects on the community, it is necessary to take a brief view of the state of things which he was called on to supersede and transform.

It would appear, from the condition of the Irish prisons previous to this reform, commenced in 1854 and now in successful operation, that Howard's narrative had not produced a deep and lasting impression in Ireland. Whilst England had derived some benefit from the acts for the establishment of Penton-

ville and Milbank prisons,\* Ireland was neglected. Not a single branch of the administration of the government prisons was satisfactory or to be relied on. Everything was in a state of neglect. Juvenile and adult criminals were confined together, and without classification. In the dépôts which had been calculated to hold only 3,210 convicts, 3,427 individuals were crowded together.† There was a want of proper officers for the maintenance of the ordinary discipline. Intoxicating liquors were indulged in by the prison warders—men appointed to superintend others whose crimes had originated in drunkenness, and of course there could be no question as to the possibility of even the most necessary reform or the education of the convicts. It might be considered a fortunate occurrence when a prisoner did not leave the prison worse than when he entered it. Even in Australia, where, in consequence of the want of labour, healthy muscular power was held in higher estimation than resolutions of amendment, the Irish convict was feared, and on account of his entire uselessness was considered fit for no occupation. [See despatches of Governor of Western Australia, 11th September, 1851, first Report,

\* Act 5 & 6 Vict. cap. 29. 1842.—*Translator.*

† The numbers and the overcrowding were considerably greater than is here stated. At Spike Island alone “In accommodation scarcely suitable for 1,200 convicts, 2,000 were crowded together;” “In Smithfield, Newgate, and the other prisons, the overcrowding was equally great. In December, 1853, the number of prisoners was 4,242. See Correspondence relating to Convict Prisons in Ireland, and Report of Commissioners, July, 1854.—*Translator.*

page 2, and Report of Inspector-General of Convicts in Western Australia, of 10th January, 1855, and included in the Report on Transportation of 1856, p. 138.] The witnesses examined before the Parliamentary Committee of 1856, on the transportation question, gave forcible expression to those complaints of the colonists :—

The mortality in the Irish prisons then reached to eight per cent., the majority of deaths being caused by fever and consumption.\* [With regard to cellular imprisonment it was then frequently stated that scrofula prevailing much more amongst the lower orders in Ireland than in England, such imprisonment, when awarded, could not be carried out in consequence of its injurious influence on health. Under the new management of the prisons this opinion has been proved to be erroneous.] The labour

\* On this subject the Directors observe :—"The inroads of "this disease (scrofula and consumption) have been most success- "fully combated. We believe that the system now pursued, "of active industry and mental culture, and above all, the removal "to intermediate prisons and refuges has had, amongst other "advantages, a most salutary effect in preventing the depressing "influence, so productive of that malady, by the active employ- "ment of the mind and opening a new field of hope as to the "future career of the prisoner." "The mortality among the "prisoners, amounting, in 1854, to 289 deaths in 3,628 prisoners, "had been steadily reduced until, in 1826, it amounted to but "54 deaths in 2,852 prisoners. In 1857 the, mortality has been "45 deaths in 2,442 prisoners; averaging one-eighth per cent. "on the entire prison population. The mortality during the "year (1858) has been one-sixth per cent., being less than we "have had to report."—(See 4th & 5th Reports).—*Translator.*

† The Directors report that :—"Every female convict and

of the convicts had, at last, become almost entirely valueless, and there accrued an enormous and disproportionate expense to the government for their support. With this state of things may now be contrasted the acknowledged results which have been attained under the present system within a period of four years, a cheering proof that efficient reforms can be accomplished in a short time by an earnest will on the part of the government, and by the choice of proper men in the executive.

We shall not here stop to speak of the far-reaching importance of this system which is now carried out in Ireland, but shall confine ourselves to a sketch of the evident success which can be proved to have attended it :—First, the mortality, in comparison with former periods, has diminished seventy-five per cent.; secondly, the value of the labour of the convicts has increased to three times the former amount, by which some of the prisons have become self-supporting; thirdly, the use of disciplinary punishments in the prisons has rapidly decreased; fourthly, and finally, the demand for labourers, and indeed, for convicts as labourers, surpasses the number discharged.

“every male, except six, sentenced to penal servitude during the “last year (1858), passed their period of probation in strict separation in Mountjoy prisons. The experience of each succeeding “year confirms the opinion expressed in former reports—that “the strict separation, carried on here in no way tends to mental “disease.”—*Fifth Report of Directors of Irish Prisons*, p. 22.—*Translator.*

To obtain such results, it was certainly necessary that a decided alteration should be made in every branch of the department, more particularly by the change of former prison officers and the improvements of the buildings. These prison officers were nearly on a level with the convicts themselves ; warders who, on account of drunkenness, had been several times punished by fines, and even by imprisonment, had retained their places. How general this misconduct must have been, appears particularly in the fact, that in Mountjoy prison thirty-eight cases of drunkenness against eighteen warders had been reported and inquired into ; of these, for the same offence, eight officers were convicted for the first time, four for the second time, three for the third time, two for the fourth time, and one for the fifth time. [For those prison officers who had already been several times punished for drunkenness the expression used in the defaulters' book was, "being very slightly under the influence of drink." In consequence, therefore, of the official investigation into the conduct of the officers, almost all the prison warders, in number above one hundred, were dismissed, either on account of incompetency, neglect of duty, or immorality. All the school teachers met the same fate with the exception of one only. According to the new regulations introduced by the directors in 1854, such persons only as can satisfactorily prove their competence are admitted into the service. They are then placed on a six month's probation, during which

time the governor of the prison must give every month an exact report of the general character, capacity, services, habits, and morality of each candidate. After a knowledge of the certain fitness of the individual has been thus obtained, the vacant place can be properly and finally filled up. A firm discipline over the officers knows no longer any connivance at the "merely slight influence of drink." In the year 1857, this new raw material had already worked so well that the directors were able to express their satisfaction with it.

For the purpose of doing away with the utterly neglected state of the educational training of the convicts, two head schoolmasters were employed, of whom one had, up to that time, taught in a poor school in Dublin. Before they took office Government allowed them, at the instance of the directors, the expenses of a journey through England, for the purpose of comparing and examining the methods and systems of instruction used in the different institutions of that country.

The utility of this measure was soon apparent from the fact that under the two head schoolmasters other subordinate teachers were enabled to be prepared for the special service of the prison administration, so as to carry out one certain uniform system throughout. The next great evil—the over-crowding of the Irish prisons—could not be endured even until the completion of the new buildings, which had been commenced, and were, at first, but slowly pro-

gressing. A speedy remedy was urgently demanded, which, unfortunately, did not agree with the requirements of strict laws. To effect this object, it was resolved to apply the act of 20th August, 1853, which introduced penal servitude as a concurrent punishment with transportation. In accordance with that act which fixes a shorter measure of time for penal servitude than for the former terms of transportation—in the proportion of about four to seven—these shorter periods of penal servitude were then substituted for the longer terms of transportation, laid down in the sentence of the judge. This course was practically and perfectly just, even without reference to the lamentable state of the Irish prisons and their inmates, because transportation had become no more than a name similar to the old French *déportation* of the *code pénal*, which was carried out in a fortress of France. Hence, the Irish under sentence of transportation were, in point of fact, in an exactly similar position to those who had been awarded penal servitude. The fault consisted only in this—that the change of sentence into penal servitude by the administration, although eminently just and necessary, had not been exactly decreed by the legislature.

Under the principle of the new act of 1853, the then Lord Lieutenant of Ireland, Lord St. Germans, ordered to be made out, lists of those convicts, who, on account of good conduct, could be recommended for an abridgment of their longer periods of transportation. By this means, the discharge of a great number of

convicts was possible, and the proportion between their numbers and the accommodation in the prisons was restored. Such administrative proceedings of the executive had, in themselves, nothing remarkable when compared with the previous condition of the law in England ; because, as a general rule, the prison authorities had been in the habit of doing exactly what was contrary to the sentence pronounced by the judge.

We do not consider that the Irish government showed any particular mildness of legislation in this reduction of the periods of transportation into those of penal servitude ; on the contrary, the old transportation system used to be still more abridged by the issuing of licenses, and by conditional pardon, so that this reapplication of the act was not injurious, at least to the convicts.

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## PART I.

### FUNDAMENTAL PRINCIPLES ON WHICH SENTENCES OF PENAL SERVITUDE ARE CARRIED OUT.

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## CHAPTER III.

### THE POWER OF DIMINISHING THE PUNISHMENT AWARDED BY THE JUDGE.

IN accordance with the principles which regulate the duration of imprisonment, as a punishment for crime, in Ireland, the period of detention is measured partly by the sentence of the courts of law and partly by the discretion of the executive ; which latter circumstance makes them essentially different from the English method of treating criminals.

The chief characteristics of the Irish system are : the power given to the authorities of shortening, on account of good conduct, the punishment to which the criminal has been sentenced by the judge; the graduated division of punishment into certain differently constituted periods ; and the care or supervision of convicts on discharge. We shall treat of the latter subject towards the end of this work, but here confine ourselves to a general sketch of the two former.

Whatever regulations affect the reduction of imprisonment, influence also the conditional liberation of the convict. The relative lengths of the fixed and of the changeable portions of the entire term of im- pri-

sonment, as set forth in the Act of 1857, and the regulations respecting them, as laid down by the Secretary of State for the Home Department, are so arranged that the only periods which can be altered or abridged, are from about one-sixth to one-third of the entire time. [See circular from Sir George Grey, 27th June, 1857]. The rational foundation of this is—that the period to be diminished must correspond with the length of the sentence.

The following is the scale of remissions in each case :

Sentence, Penal Servitude.	Proportion to be Undergone.	Proportion which may be Remitted in case of Good Conduct
3 years, .	Five-sixths, = 2 years 6 months,	One-sixth.
4 " .	Four-fifths, = 3 " 3 "	One-fifth.
5 " .	Ditto, = 4 "	Ditto.
6 " .	Three-fourths, = 4 " 6 "	One-fourth.
7 " .	Ditto, = 5 " 3 "	Ditto.
8 " .	Ditto, = 6 "	Ditto.
10 " .	Ditto, = 7 " 6 "	Ditto.
12 " .	Ditto, = 9 "	Ditto.
15 years and upwards,	Two-thirds, . . . . .	One-third.

With regard to convicts sentenced for life, there are no positive directions given :—“ Each case will have to “ be considered according to the special circumstances “ belonging to it. Some convicts have been guilty of “ crimes of such an aggravated character that it may “ be necessary to retain them under restraint during “ the whole of their sentence. When, however circum- “ stances may justify their removal to a colony, such “ removal shall not take place until after they have

"undergone at least eight years of imprisonment and labour upon public works ; and, if not removed to a colony, they shall obtain no remission until they have undergone at least twelve years of their sentence." [See circular above referred to]. As a general rule, the fixed duration of the imprisonment must amount to three-fourths of the entire sentence passed by the judge.\* The remission of a portion of the term of imprisonment, according to this scale, is carried out by the executive and does not form part of the original sentence, but falls under the usual regulations of pardon. This partial remission of sentence is intended to meet the demands for improvement in the system of punishment heretofore adopted. [See also Mittermaier, page 142]. The persuasion that good conduct may obtain a mitigation of his punishment, acts as a moral lever elevating the convict, and stimulating him to exertions, to which, probably, nothing but such a motive would excite him.

The question whether a subsequent remission of the sentence be in accordance with the theory of absolute justice is one of minor importance in England ; for, although while transportation continued, it was the custom to carry out the sentence rigorously in every case, latterly, since the abolition of transportation, the tendency has been to modify the sentence for the purpose of reformation.

\* The Irish Government has approved of the following scale, which shews the earliest periods at which prisoners convicted under the recent act may qualify themselves by *unexceptionable*

The principle of having the term of the sentence fixed and unalterable, and to be carried out in every *conduct* for admission to the privileges of the Intermediate Prisons. The remission of term is in this country accompanied by a condition of good conduct:—

Sentences.	Shortest periods of Imprisonment.		Periods of Remission on License.
	In ordinary Prisons.	Intermediate Prisons.	
3 years	2 2	0 4	
4 „	2 10	2-6	
5 „	3 6	3-3	
6 „	3 9	4-0	
7 „	4 0	4-6	
8 „	4 8	5-3	
10 „	6 0	6-0	
12 „	7 3	7-6	
15 „	8 0	9-0	
		10-0	
			The periods remitted on License will be pro- portionate to the length of sentences, and will depend upon the fitness of each Convict for re- lease, after a careful consideration has been given to his case by the Government.

The above earliest possible periods of removal to intermediate prisons, apply only to those of the most unexceptionable character, and no remission of the full sentence will take place unless the prisoner has qualified himself by carefully measured good conduct for passing the periods in the intermediate prisons prescribed in the rules, and any delay in this qualification will have

case, merely proves, that formerly any attempts at reformation were considered impossible. At all events, the requirements of justice are now satisfied in practice ; because it is taken for granted that more severe sentences ought to be inflicted for greater crimes, as otherwise there would be a less probability of reformation ; a conclusion, however, which I am not prepared to admit.

Notwithstanding this, efforts are not unfrequently made in England to favour, in theory, the ends of reformation at the expense of justice. This is proved, especially, by the fact that there is a general wish to supersede "short imprisonments," by such others as may be considered the shortest periods during which reformation can possibly be accomplished. [See Results of Short Imprisonments in the *National Review*, January, 1853. It is there asserted that "'short imprisonments,' are an injustice to society." At the meeting of the National Asso-

the effect of postponing his admission into the intermediate prisons, and thereby deferring to the same extent the remission of a portion of his sentence.

Convicts under sentence for "Life" will not be eligible for consideration for remission under twelve years ; in the event of their misconducting themselves they will not be eligible at so early a period, and may be retained even for "Life."

There may be exceptional cases and crimes of such a heinous description as to preclude offenders from being treated in the ordinary manner ; these will be dealt with specially by the Government.

This notice is signed by the three directors—Captain Crofton, Mr. Lentaigne, and Captain Whitty. [See Fifth Annual Report, page 13].—*Translator.*

ciation for the Promotion of Social Science, held in Liverpool, in October, 1858, it was resolved to direct the attention of the Legislature to the expediency of so prolonging the sentences "passed in serious cases of crime, as to admit of considerable periods of fixed imprisonment, followed by "a proportionate period of probationary detention," a mode of expression out of which legislation will probably make nothing].

It may be granted that reformation, as far as it means a perfect interior change of character in the criminal, cannot be attained in a few days; yet it does not follow that the state would be justified in imposing in every case, through an anxiety to reform, long imprisonments for insignificant offences.

A great number of punishable offences are not so much the result of a reprobate mind, as of a series of external influences, which the prisoner was not able to resist under the particular circumstances of that one occasion; and when dealing with him, we are not warranted, by a zeal for reformation, in acting against the liberty of a person, who is perfectly conscious of his guilt. On the contrary, justice very often requires, in such a case, still shorter imprisonment than the law permits.

But if legislation were to yield to such demands, it would necessarily by degrees lose all stability, as the scale for the duration of imprisonment would then depend on the experience of the prison administration, the greater or less capability of the prison officers,

and other entirely accidental circumstances. The argument in favour of discontinuing short imprisonments would only be justified if all slight offences were punishable solely by fines, and we had only to deal with habitual offenders, or persons whose crimes proceed solely from perverted motives. [The difference between habitual and casual offenders is very apparent in England. See the article referred to in the preceding note. In estimating the number of criminals, it is generally considered that fifty-four per cent. have no means of livelihood but plunder, and three-fourths of the crimes of that country are committed by them. A series of English writers enlarge on "Criminal Statistics." See *Plint's Crime in England*, London, p. 144.]

It is evident that to insist upon long imprisonment in every case, without keeping in view the principles of strict criminal jurisprudence, would become the source of a multitude of most dangerous consequences. The zeal for reforming at the expense of justice would lead to the same bad results as that of inflicting punishment for the sole object of deterring. When legislation decrees more severe punishments for relapses into crime, it acts on the principle, that the offender has become subject to criminal influences, in which he is confirmed by habitual indulgence, and the actual offence against the law is rather kept in the back ground. There are no sufficient grounds in criminal jurisprudence to justify us in going further; and it would not be

desirable that the judge should make such an investigation into the hidden motives of the criminal, as the ancient Egyptians required in their tribunals of the dead.

The state would contradict itself if it undertook to correct crime by other means than those which justice requires ; and no successful results could excuse the adoption of a course at variance with the principles of law. When a criminal is not reformed during the course of a long imprisonment, the only resource would be an indefinite and arbitrary prolongation of punishment, and the prisoner would thus be absolutely deprived of all legal rights. Finally, if an apparently reformed convict were discharged and immediately afterwards transgressed the law, the prison authorities would be censured, and therefore they would be bound to take such measures previously as would prevent the possibility of such an occurrence. On the other hand, the power of shortening the sentence, compared with the existing outcry for long imprisonment, carries with it a substantial justification, which by no means depends on the sole view of reforming. The powers of the prison authorities are strictly limited, and those limits should never be transgressed. [At least by the officers of the administration itself, and therein lies the fault of the entire English system, in the principles of which there is great obscurity.] Although the law may fairly admit of such a fixed shortening of punishment, enough should still remain to satisfy

justice. The measure of punishment in this case is made dependent not only on the sentence of the judge who determines its limits, but also on the united action of the judge who passes the sentence with that of the prison authorities who carry it into execution, but only so far as to enable the latter to act within certain prescribed and very narrow limits.

Whether such a division of the functions of penal repression be expedient, and to be recommended, or whether it be at all allowable, is rather a political question than one of criminal jurisprudence ; to answer which, we must consider principally the capabilities of prison officers and the confidence which they merit. The determining of the measure of imprisonment by the bench of judges, is besides, in most cases, no more than a compromise between different opinions as to the length of punishment which ought to be chosen for a precise crime out of a relative determined measure of punishment. The interference of an extra Judicial Board is of the less importance as in point of fact, the substance of what is meant by imprisonment is, for the most part, made dependent on the administration of the prison itself, as the greater or less severity in carrying out the punishment is determined by local circumstances. [This view of the power of shortening punishment, and of its realization by a division of the judicial functions amongst several members of the state, can only suit the circumstances of England. Independent of the motive of reformation

alleged as a reason for granting this power, if we look at the matter from an English point of view, its nature may be thus defined—the judge estimates the dignity of the outraged laws according to a certain measure of time, conditional on the supplementary revision of the estimate by the administrative authorities. In Germany a special proof would be required to show that the power of curtailing the punishment within a certain limit was compatible with strict justice ; such a proof, which is of no consequence according to the English idea of punishment, can be given without much difficulty, where the judge has already considered and measured out the quantity to be inflicted and finally fixed within relative bounds, the course which the sentence has to run. The technical definition of it might be, that the remission of imprisonment towards the end of the sentence is a diminution of punishment which the judge defers, because his knowledge of the possibility of subduing the refractory will of the criminal must be supplied by experience, to be attained during the course of the imprisonment.

## CHAPTER IV.

DIVISION OF PENAL SERVITUDE INTO SEVERAL  
DIFFERENTLY CONSTITUTED PERIODS.

THE second leading principle common to the penal systems of both England and Ireland is the graduated division of punishment into certain differently constituted periods : hence, the entire term of imprisonment is divided into the two chief sections of cellular imprisonment, and compulsory labour in association—the former of which is limited to a short time, in comparison with the latter. The difference between the English and Irish systems mainly consists in the fact that in England compulsory labour in association is immediately followed by conditional liberty on tickets-of-license ; whilst in Ireland a third stage is interposed by means of the intermediate prisons. Cellular imprisonment and compulsory labour in association are almost diametrically opposite ; and, it seems surprising how a combination of both systems could be resorted to, as it is so apparent that the advantages derived from cellular imprisonment must be done away with by the subsequent association of the prisoners, that the circumstance could not have been overlooked.

Independent of the expense and the want of proper prisons, &c., the cause of this combination of two

such opposite principles as cellular imprisonment and associated labour may be the prejudice against separate confinement, and also certain views which appear to have been adopted as to the best way of accomplishing the different purposes for which the punishment of crime is intended.

This brings us particularly to consider—first, the opinion adopted in England that cellular imprisonment cannot be endured for any length of time without injury to the prisoner. Hence, the period of separate confinement is always determined according to circumstances, either for a shorter or longer term, and its duration is arranged, not according to the powers of endurance of the individual, but according to a certain fixed scale, as it is evident that by any other arrangement all firmness in the carrying out of punishment would be lost. The different character of the Irish people, may, besides, have been taken into consideration, as a still shorter period of separate confinement than was customary in England was laid down for Ireland; but no sufficient experience having then been obtained as to the possibility of applying cellular imprisonment for long periods, this idea may be considered as almost a prejudice.

Secondly—The conviction that the two objects of punishment, to deter from crime, and to reform, cannot be realized by one and the same mode of discipline, and that each requires the particular kind of imprisonment suitable for its purpose. [See Captain Crofton's Memoranda : "The present system,

"commencing with the deterrent, is followed by a course "of penal and of reformatory discipline."] Cellular imprisonment forms a distinct, but shorter ingredient of the punishment, and is sought to be made use of for the deterrent object and as a preparatory stage for associated imprisonment, by making compulsory labour in the open air more valued. From this we must conclude, that hard labour in association is considered the chief constituent part of the punishment ; and that the rule which guides the system, is not the fear that the results of separate confinement will be thus effaced, but the idea that its effects will have a most beneficial influence on the prisoner, when at labour in association. Isolated and in solitude the convict will learn to value society, as he will find his punishment most severe at the commencement of his imprisonment, from having just bid a long adieu to all free communication with society. It is also considered that the deter- ring remembrance of the separate confinement which he has endured will assist him in withstanding the temptations and seductions to misconduct, when in association ; and this so much the more, as his com-panions, in compulsory labour, will have themselves undergone separate confinement and experienced its effects. At this stage more reliance is placed on an interior isolation of the mind of the convict than on the external isolation, by means of prison walls ; and, it is believed that the injurious tendencies of asso- ciation will not be developed amongst men who have

already experienced the effects of separate confinement. Finally, it is assumed, that hard labour in the open air is different in its effects from hard labour in association within the prison.

We are satisfied that if this opinion be correct the idea of cellular imprisonment being succeeded by another system can be justified, and the possible advantages or disadvantages of such an arrangement must be sought for, not in theory, but in its practical results. According to this view, the supposed contradiction in the employment of cellular imprisonment in connection with compulsory labour in association disappears, as the results which we may expect from cellular imprisonment are principally negative.

It may naturally be conceived that opposite results would necessarily follow if we were to admit that cellular imprisonment is a less severe punishment than labour in association. It might, with some appearance of truth, be asserted that the convict has more need of the interior recollection and mental preparation, which separate confinement affords, immediately before his discharge and at the close of his term of punishment, than at the beginning. On the contrary, however, experience shews that the important psychological impressions of separate confinement are mainly produced by the sudden change, which, immediately after his condemnation, tears him from all his previous connexions, and which, in the entire after life of the man, can never be

obliterated. This great psychological value of solitude would, necessarily, be lost if it were applied at the close of the term of punishment. Besides, it might be considered that if the entire period of labour in association were placed at the beginning, it would be useless, inexpedient, and ineffective. The succession of periods in the English and Irish systems must, therefore, only be approved of if we admit the general principles on which they are based. Amongst the great diversity of opinions entertained on all matters of prison discipline and questions of criminal jurisprudence, it is remarkable that in estimating the different means of punishment, it is generally admitted in England that no positive results for the ends of reformation can be ascribed to cellular imprisonment alone, and it is also considered to be insufficient in itself as an exclusive means of punishment. The foundation for this view is that cellular imprisonment by the application of a powerful physical restraint on the body acts on the mind, and reduces it to a state in which it loses all power of will and independence of action; and that, therefore, it should be used on a scale according to which its peculiar effects may be determined in each separate case. The opinion that cellular imprisonment can never be used for a long time without injury to the prisoner is necessarily different from this view of the subject.

It is thus that the gradation of punishment, and its division into certain stages, appears perfectly allowable, particularly in Great Britain where the

most extreme difficulty exists in procuring a permanent livelihood for discharged convicts, where a particular energy is required to withstand the temptations to new crimes, and where on that account the chief problem to be solved in the carrying out of punishment seems to be, not merely to crush the perverse will of the criminal by imposing restraint, but also to procure and form in its place a new positive power of self-control and energy for action—a problem which the system of separate confinement, by itself, never can solve.

As a further proof of the correctness of having the punishment divided into stages, we may observe, that monotonous imprisonment, for a long series of years, gradually loses its moral effect on the character of the convict. Sooner or later the time will arrive when, accustomed to the nature of his punishment, he becomes perfectly indifferent to it. The influence of imprisonment on the mind varies continually : at the beginning its effects are more powerful, and they are gradually weakened towards the middle and at the conclusion of the term. No greater evil can be conceived than that a prisoner, who entered the prison with fear and shame, should leave it indifferent and with blunted feelings. When, therefore, there is question of long imprisonment, the restraints of discipline must be modified, and its forms diversified, in such manner as to proceed from great severity to great mildness. This should not be considered simply as a reward for good conduct, but its object will be

seen to be of much higher importance, when we bear in mind that the discipline of the prison is intended not merely as a physical restraint on the conduct of the individual, but as a means by which we may hope to solve the problem of the theory of punishment, which should be suited to act on the mind and character of the convict, according to fixed rules, as was done by the judge, when awarding in the sentence the measure of punishment due to his crime. In a prison, at all events, arbitrary severity should never be permitted; because the prisoner, while undergoing his sentence, should on no account be considered as a lawless subject. The gradation of the punishment brings forcibly and plainly to his mind, for the first time, the power of coercion, and prevents the effects of monotonous imprisonment for a lengthened period —which may either rouse the mind to an abnormal excitement, causing frequent breaches of prison rules, and bringing the prisoner into constant collision with the prison authorities, or else, by the long continued routine of discipline, may reduce him to a hopeless condition, from which he may never recover the healthy action of his mind.

## PART II.

### STAGES OF PUNISHMENT.

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#### CHAPTER V.

##### CELLULAR IMPRISONMENT.

CELLULAR imprisonment is made use of for different objects in carrying out the Irish system. First, such prisoners as cannot be allowed to remain in association without danger to their fellow-prisoners, or the officers placed over them, are confined for security in cells;\* secondly, it serves as a disciplinary punishment; and finally, it is the first stage of the system of treatment to which all convicts are subjected.

\*The treatment of this class is evidently attended with the greatest difficulty. The directors report that such prisoners cannot be placed with safety in association, and the discipline of a separate prison appears equally unsuited for them. The medical officers will not sign the certificates requisite for their removal to a criminal lunatic asylum, and yet many ultimately become incurably insane, and others die of scrofula and consumption. In a note, page 12, of Third Report of Directors, it is observed that "These cases are referable to a disordered state of the body acting on an ill-regulated mind, and exciting to irregular and criminal impulses and the commission of crime, often without apparent cause and against the interest of the individual, and are generally attributable to scrofula, which appears to develop itself not alone in the form of phthisis and diseases of the glands and joints, but also by a peculiar tendency to attack the cerebral organs and influence their functions, leading to a per-

It follows from the nature of the detention, in the first case, that the period of cellular imprisonment must be uncertain, as it is not then used merely as a disciplinary punishment. In the last case the rules lay down a fixed period of cellular imprisonment for nine months, which period was at first fixed and unchangeable, but in 1857 a power was given to shorten even this first stage by one month ; so that a prisoner, by very good conduct, may, after eight months, be placed in the class of associated labour.\*

The cellular imprisonment, to which about 750 individuals are subjected in the course of each year, in Mountjoy prison, near Dublin, may be considered as a mitigation of the Philadelphian system, but free from the exaggerated, and therefore useless, severity of the separate system carried out strictly in its most minute details. [The fourth Annual Report of the Directors of Irish Prisons contains, besides the General Report of the Directors on Mountjoy Prison,

version of the moral sentiments and the constant obtruding of false ideas and perceptions on the mind." The connection between scrofula and diseases of the mind is well known, and has led to practical results in the treatment of insanity and idiocy in Switzerland and elsewhere ; but the type to which we now refer, equally requires special treatment, which it can never receive in a convict prison. See note above referred to."—*Translator.*

\* The value placed by the prisoners on this remission is shown in the Fifth Annual Report of the Irish Directors, who say, page 22, "The vast majority go through their term of probation without committing even the slightest breach of prison rules." This proves the influence exercised over the prisoners by the hope of even the smallest mitigation of their sentence."—*Translator.*

separate reports from the governor, medical officer, each of the three chaplains, and the head schoolmaster.] In this prison there are no separate exercise courts; neither is there evinced that anxious care which raises a barrier between the living during the ordinary exercises of religion, nor are there any other such ridiculous excrescences of a principle which was originally right in itself. Might we not almost expect that this zeal for separation, carried through the most minute details, would one day raise a wooden partition even between the graves of deceased prisoners, as if to carry the cellular system into eternity?

Since the removal of the unnatural cellular barrier between the prisoners in the chapel of Mountjoy prison, it has been shown that the solemnity of Divine Worship and its effects on the minds of the convicts are enhanced by association; while, on the contrary, the restraint of separate cells in the chapel, strongly incited to attempts at communication.\* The Protestant chaplain speaks very decidedly on this subject in his report to the directors (4th Annual Report, page 48). The Roman Catholic and Presbyterian chaplains also bear testimony to the happy results of the religious instruction given to the prisoners. The Catholic prisoners, on their removal to the prison, undergo an examination, in order that their religious proficiency may be ascertained in order to classify them for further instruction.

\* The cells in the chapel of Mountjoy were removed in the year 1850. —*Translator.*

The means used to instruct the followers of each creed are, as may be supposed, quite different. The chaplain of the Established Church, Rev. John Black, thanks the directors for allowing bibles and hymn-books for the constant use of the convicts in their cells ; and the Catholic chaplain, on the other hand, mentions in terms of praise that certain books, which are “dangerous to faith,” have been at his request promptly removed from the cells of the Catholic prisoners. [The creeds into which the convicts are divided are as follows :—Members of the Established Church, 44 ; Catholics, 340 ; Presbyterians, 5.]

Secular instruction, to a certain extent, is given in the school to the prisoners in open classes. With regard to education, the Irish Prison Directors had one of the greatest and most noble of problems to solve, for nowhere, perhaps, was there such want of education and mental culture as amongst the lower orders of the Irish,\* and no where, likewise, have such

\* This opinion seems to be founded on the report of the head schoolmaster of Mountjoy Prison, who evidently only alluded to the class of people under his charge, and did not refer to the mass of the population. At all times the love of the Irish for learning was remarkable, but difficulties were thrown in the way of education by the act 7 William III., which made it penal to receive education under certain circumstances; notwithstanding which, numbers who were incapacitated from teaching publicly, under heavy penalties, by the ninth section of the act, continued to hold their schools under rocks and trees, hence the name “hedge schools,” given in Ireland to schools for the poor not in connection with the state. In spite of all obstacles and difficulties the passion for education in Ireland outlived these enactments. In 1824 the Commissioners

brilliant results been obtained by the instruction of the convicts as in Ireland. [In England the state of things is indeed sad enough. According to Lord Brougham's Essay, read before the National Reformatory Union at Bristol, in August, 1856, "*On the Inefficiency of Simply Penal Legislation*," the half of all the prisoners who were examined by the prison Chaplain at the Preston House of Correction neither knew the name of the reigning Queen, or even those of the twelve months of the year.\* See Report of First Provincial

of Inquiry into the state of Education found 560,549 children in attendance at schools during the autumn months, of whom 307,402 were Catholics and 87,328 Protestants, or a total of 394,730, were paying pupils. The population at that time was six millions and three-quarters; now it is perhaps less than six millions and a quarter. Yet, in the year 1858, there were, according to the Twenty-fifth Report of the Commissioners of National Education, no less than 803,610 pupils in the National Schools, and in the schools of the Church Education Society for the same year there were 82,417 children in attendance. Besides these numbers, there was a large attendance at Christian Brothers' schools, convent schools, charity schools, private schools, and others not included in the above returns, for the education of the poor, as also a considerable number at middle class schools, seminaries, colleges, &c., making the number undergoing the process of education in 1858 very nearly 1,000,000. For further evidence of the exertions made by the Irish to promote their own education in the face of obstacles nearly insuperable, see Report of Committee on Irish Poor in 1830, questions 1,943 and 4,600.—*Translator.*

\*The author here refers to the report made to the visiting magistrates by the late Rev. John Clay, chaplain of the House of Correction, Preston, Lancashire, who says: "Let me present a short summary of three years' observations. During that period the performance of my duty has brought me into contact with 1,733 men and boys, and 387 women and girls,

Meeting of National Reformatory Union, London, page 62.] Of all the convicts received into Mountjoy Prison, ninety-six per cent. were almost quite illiterate. The manner in which they were brought up had done nothing for whole classes of the population but replenish ignorance with prejudice and opposition to every improvement. The attempts of the prison schoolmaster to convey instruction were in a great measure disdained and obstinately rejected, because it was considered disgraceful to receive "any learning in a jail school, or from the English government." Some expressed their intention of afterwards concealing the education received in the prison. A prisoner named \* \* \* \* could never be persuaded of his error in this respect, and left the prison as ignorant as when he came, although he fully admitted the great advantages of education. He often said he wondered how other prisoners could be so "mean" as to take instruction from the English government. To

altogether unable to read; with 1,301 men and boys, and 287 women and girls, who knew not the name of the reigning sovereign; with 1,290 men and boys, and 293 women and girls, so incapable of receiving moral or religious instruction, that to speak to them of 'virtue,' 'vice,' 'iniquity,' or 'holiness,' was to speak to them in an unknown tongue; and with 1,120 men and boys, and 257 women and girls, so destitute of the merest rudiments of Christian knowledge, so untaught in religious forms and practice, that they knew not the name of Him who died for their sins, nor could they utter a prayer to their Father in heaven! Yet minds like these are abundantly and cheaply supplied with the 'perilous stuff' contained in *The Newgate Calendar Improved*, the adventures of Dick Turpin and Jack Sheppard, and similar corrupting trash contained in *Lloyd's publications*. I have con-

accept an English education seemed to many of the Irish convicts to be a shame and a disgrace.\*

Notwithstanding this unfavourable condition of the prisoners with regard to education, the results of the instruction imparted at Mountjoy Prison were so successful that, generally speaking, within five months this deficiency of elementary knowledge was remedied, and only about ten per cent. of the convicts had made no progress whatsoever. These were incapacitated from receiving instruction either through corporal defects, such as deafness or blindness, or they were of an intellect so low as almost to border on idiocy.

The instruction is not limited to reading, writing, and arithmetic. Bible history, grammar, and geography are likewise taught, but with different results. [It seems to have altogether escaped the observation of Dr. Behrend that instruction is given in

versed during the last three years with 1,234 males and 199 females who, though ignorant of almost everything good and useful, and of the meaning of the words 'virtue' and 'vice,' have yet been made familiar with, if not enamoured of, the personification of the latter as held up for their sympathies and imitation in the stories of Turpin and Sheppard."—(See Report). *Translator.*

\* This is taken from the report of the head schoolmaster of Mountjoy Prison for the year 1857, but that such a feeling no longer exists among the prisoners may be judged from his report for 1858, in which he says: "There is no part of the prison, not even the chapel, where the prisoners are more orderly, submissive, and respectful than in the schoolroom. A high value is placed upon the privilege of attendance, and the prisoners are always upon their guard, and careful not to forfeit it even for an hour."—(See Fifth Annual Report of Directors.)—*Translator.*

Mountjoy. See his book, page 160.] While grammar has but little attraction, and seems too dry for the majority, the experience of the teachers shows that geography is a subject which strongly attracts the attention of the convicts. The same observation has also been made on the continent. This interest in geography is easily explained in a nation which above all others follows the instinct to emigrate, and which yearly sends its crowds of emigrants to the United States.\* Even those branches of this science which are not immediately connected with the imagination, but require the exercise of the reasoning powers, such as mathematical and physical geography, are appreciated and studied by the convicts.

In Ireland, where political, sectarian, and social party agitation prevails in so great a degree, it is of particular importance that education should refer practically to the duties of social life. Party strife and party crimes, strict adherence to religious persuasions, illegal societies, hatred of races, and the peculiar relations of landlord and tenant, all these influences have occasioned in the community opposite elements, which contend and seek to destroy each other with the sharp-edged weapons of prejudice; and thus blinded by political and religious differences, many are led to the bar of the criminal judge. In such cases to reform

\*This taste for emigration has only arisen within the last thirty years, except during the existence of the penal laws, when 45,000 enlisted under the French banners in less than a century, and the Spanish and German armies were equally recruited from Ireland.—*Translator.*

simply signifies to convince the understanding of its errors.

This explains the importance which the directors attach to teaching the fundamental principles of political economy. The subjects principally dwelt on are the legitimate relations between the employer and the labourer, the grounds on which wages are determined, the influence which the use of machinery exercises in benefiting the labouring classes, the superiority and use of mechanical knowledge, the means of earning an honest livelihood, and, finally, all matters referring to the rights of inheritance of each member of the family. By this means a multitude of widely disseminated prejudices, full of evil consequences to the welfare of the labouring classes, are eradicated, or at least combated. In the Fourth Report, the head schoolmaster, Mr. M'Gauran, says in reference to this subject :—

“ Erroneous notions regarding wages, rise and fall of provisions, competition in trade, railroads, and machinery, have been a public source of poverty and crime. To eradicate these opinions in the rising generation is an object of great importance to the peace and well-being of the community.”

The necessity for this practical secular instruction is acknowledged also by the chaplains, who in cellular imprisonment have above all others a field for fruitful activity. Nowhere is the mind more susceptible of impressions than in solitude, where nothing can interrupt the voice of conscience, and the convict,

notwithstanding his physical strength, is thrown back upon himself powerless within the precincts of his cell, and has nothing to make him ashamed of the glimmering spark of religion which still remains in him, as would be the case in association. Nevertheless, the chaplains in the Irish prisons, although perfectly conscious of the duties of their calling, do not lose sight of the injury which an excessive strictness of religious discipline must produce on individuals whose intellectual development is so backward. One of them, the Rev. Mr. Cooney, Catholic chaplain, expresses himself on this subject in a very remarkable manner, as follows :

“The system of separation pursued in Mountjoy, “joined to religious instruction and reading, tells “very powerfully on the minds of the convicts for “two or three months; it subdues, and almost inva- “riably leads to a change of sentiments. It is vain, “however, to expect that religion can exercise this “absorbing influence for a very long period. These “poor men are not called by God to a contemplative “life, and hence their minds soon require to be “relieved by other occupations. If this be denied, the “almost inevitable consequence is restlessness and “ennui, from which they take refuge in reminiscences “nowise favourable to improvement, or consume their “time in corrupting reveries that enervate the cha- “racter, and, in process of time, almost extinguish “religious and moral feeling.”—See Second Annual Report, page 59.

The religious and intellectual education of the convicts are therefore combined for a great and united effect. The blending together of different creeds within one prison has the same beneficial tendency as is felt in the Irish National Schools, although its influence may be even less required for the convicts than for the chaplains themselves. The tendency of either party to go to extremes is thus checked and reduced to a right measure of usefulness from the daily intercourse of the clergy of conflicting creeds. [This system of mutual toleration pursued by the chaplains of the Irish prisons appears to some a sort of scandal. The Rev. Orby Shipley accuses those of Mountjoy Prison of being influenced by "a spirit of listlessness," in a "disheartening atmosphere of laxity." See *Purgatory of Prisoners*, p. 17.]

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The system of secular instruction in Mountjoy Prison is the same as that used in the national schools. The different ages of the pupils require different methods of instruction, on which account they are classified according to their ages, under two heads, adults and juveniles. The juveniles, who are in the proportion of one to three, are instructed by one teacher; the adults, who constitute the remaining three-fourths, are divided into three classes, each under a separate teacher. The classes are subdivided into sections, according to proficiency, and these are instructed separately. Monthly examinations are held by the teachers, after which, those fit for promotion are

removed to a higher section, according to merit. The qualifications for the third or highest class are a facility in reading and writing, as well as in understanding the meaning of the words read—in which point the lower orders of the Irish are so deficient that the chaplains find a difficulty in making the convicts understand their sermons without subsequent explanation in their cells.\* The use of the prison library is permitted as a reward.

Juvenile prisoners, carefully selected and sufficiently instructed, are appointed to teach the boys according to the monitorial system. This arrangement was first introduced in 1857, and has been attended with favourable results, as may be seen on reference to the Fourth Report of the Directors. Competitive examinations in open classes are frequently resorted to, and tend to give the pupils a necessary degree of self-confidence. The dangers to the young criminals themselves from association are counteracted by the spirit of emulation thus excited. Only three slight disciplinary punishments for misconduct during school hours were inflicted during an entire year.

An important element employed in the instruction of the juveniles is the use of marks or badges, which

\* Caused by their imperfect knowledge of the English language. The Census Commissioners of 1851 in their report state, that in that year 1851 no less than 23·3 per cent. of the population spoke Irish; and accordingly it is not extraordinary that many of the lower orders, especially in the wild districts, should have no knowledge of the English language. The instructions of the chaplains and of the teachers are conducted in English, hence in some cases the difficulty referred to by the author.—*Translator.*

are given as rewards, not exceeding three in each month, for special progress. Those who merit this distinction are permitted to hold communication during working hours, provided it can be done without interfering with the work in progress ; however, silence is not rigidly enforced even among those who are not badged, and attempts at communication are allowed to pass merely with a reprimand, as it is almost impossible to preserve strict silence among juveniles in association.

The good effects obtained by the instruction which the juvenile criminals receive in Ireland has had a powerful influence on the convictions before the judges in that country, and produced results similar to those which had been previously observed in France, and which have been so much praised by Béranger. The number of convictions has increased, because it is a duty to arrest the progress of crime in its early stages,\* even when, according to strict

\* Since the passing of the "Juvenile Reformatory Schools Act, July, 1858," this observation has proved to be most correct for Ireland. The present Solicitor-General, then Sergeant O'Hagan, Chairman of the County Dublin, in his recent charge to the Grand Jury, observes :—

"Protestant and Catholic reformatories have been for some months working in this county, and elsewhere in Ireland ; and I know from the testimony of some of my learned friends who preside in the metropolitan police courts, that the effect of these institutions has been, even already, to diminish, in a remarkable degree, the juvenile crime of the metropolis. The success of the movement, so far, has been encouraging—saving to the criminal, —and beneficial to society, and most satisfactory to those who, like myself, discharging judicial duties in criminal courts, are relieved from the grave and painful necessity of committing youthful offenders to corrupting prisons." See charge delivered to Grand Jury, Co. Dublin, December 28, 1859. *Translator.*

law, an acquittal might be justified. When deciding ordinary cases the judge, influenced by a feeling of compassion, often has a reluctance to condemn ; but the contrary is the case when a juvenile offender is convicted whose bad parental training and vicious relations would make any chance of reformation at home impossible. His conviction is a mark of kindness and consideration.

The following directions, intended to guide the prison teachers in their management of the schools, are deserving of notice :—First, admonitions for want of attention or bad conduct at school are not to be given in open class in the school-room, but in the prisoner's cell. Second, prisoners who are very slow in learning, and therefore calculated to keep the others back in their lessons, must be sent to the end of the class and specially attended to. Third, prisoners found incorrigible must be specially reported to the head schoolmaster, who will recommend the discontinuance of their attendance at school. See Third Report, page 76.

Amongst those who have visited the convict schools, and who, being thoroughly conversant with the subject, were well qualified to form a correct judgment on the system of instruction followed in them, Recorder Hill, above all others, has spoken favorably of the intellectual progress of the convicts. He bears special testimony to the moral influence, which through a spirit of order, reigns amongst the juvenile prisoners, and which quickly corrects the evil inclina-

tion of those who are newly arrived ; and he compares the gradual taming of the latter by their fellow-prisoners to the use of tame elephants in training those that have just been caught in the snare.

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To complete the efficacy of the exertions made by the chaplains and schoolmasters, there are societies which make the visiting of prisoners their vocation. The clergy of St. Vincent de Paul have frequent intercourse with those of their own persuasion, without, however, possessing any ecclesiastical authority. Even the intercourse of respectable visitors seems to be encouraged by the Directors as far as is compatible with discipline.\* This, on principle, must be

\* The author has fallen into a mistake as far as the prisons for male convicts are concerned. No society for visiting prisoners exists in Ireland, and strangers do not visit Mountjoy male prison. In the female prisons, on the contrary, lady visitors are not only permitted by the rules of both the English and Irish convict prisons, but encouraged by the Directors, as appears from their reports. The Irish Directors observe : " We owe much to the benevolent lady visitors, who attend four days in each week to impart religious and moral instruction to the Protestant prisoners, and also to the Sisters of Mercy, to whom the moral and religious instruction of the Roman Catholics has been intrusted. These ladies never speak to the prisoners except in rooms set apart for the purpose ; and their ministration has been attended with the best results."—Fifth Annual Report, page 88.

The English Directors also, in their reports, frequently dwell "on the great benefits derived from the devoted philanthropy of the ladies, who have for many years given their time and services to aid the chaplains in planting religious principles and better feelings in the hearts of the convicts, and otherwise mitigating the rigours of their imprisonment." See Reports of English Directors.—*Translator.*

approved of, because cellular confinement is intended only to separate prisoners from their fellow-criminals; intercourse with others is desirable, as it brings with it the elements of civilisation, education, and improvement, but it should be allowed only so far, as that the consciousness of the restraint imposed would not be effaced from the mind of the prisoner.

The good done by the prison chaplain and the schoolmaster, must in general be increased by occasional visits of persons who live beyond the precincts of the prison. The deep-rooted prejudice against an education given by paid officials would be removed in the most efficacious manner by the voluntary sympathy of those who have nothing to do with the carrying out of the punishment. The feeling of restraint, which naturally more or less opposes the full effects of religious instruction, must disappear when the prisoner finds himself in spiritual union with those who are free and independent of the prison authorities. It would even be in the highest degree desirable that the regular participation of strangers in the common worship of God were encouraged, and thereby, the important conviction awakened, that crime does not prevent a community of religious worship amongst men, at the same time that justice requires that the state should use for the purposes of penal repression that coercion which religion naturally repels as being at variance with the spirit which animates her. The presence of strangers would undoubtedly contribute to make the convict set a higher

value on his attendance at church, and on the words of the chaplain.

[Dr. Faye is of another opinion ; according to his communication to the international charitable congress at Frankfort, in 1857, an attempt in that direction was made in Norway ; but the positive facts on which he founded his opinion have not been given. See the Protocol of the second session, page 401. Lately, however, his view of the subject has been proved, by the Report of the Prison Directors of Christiania, to be incorrect. See the essay on the physical and psychological influence of cellular imprisonment on the prisoners at Christinia by Dr. Von dem Busch, in *Henke's Medical Journal*, 1859, p. 123.]

The visits of associations and societies may therefore be fairly considered as essential to a proper system of imprisonment. It is only the manner in which they should be made that can be the subject of serious consideration. A prison administration which opposes them deprives itself of a most efficacious support for its end.

In common life a most immeasurable gulf lies between the higher orders and those ranks from which crime generally proceeds; for birth, avocations, property and position divide modern society less than difference of education and exterior forms of social intercourse ; or than delicacy, or coarseness of manners. The lower classes cannot perceive any difference between themselves and the higher ranks of society, other than the mere accident of the possession of birth

and property. They do not perceive the mutual dependence and connection between the two classes. The uneducated when roused into action know no other means of asserting their rights than mere brute force ; at all other times they are dull, indifferent, and thoughtless. The visits of members of the educated classes of society, of high position to the prisons, must always tend, although it may be in a limited degree, to make that great gulf seem less, and spur on the prisoner to a wish to share in that education which he must admire. An interest in his welfare displayed by those in higher position who exercise no immediate control over him wins for a cultivated mind and education, a moral importance, which will be wanting in the eyes of the lower classes, so long as society shuns contact with them, and leaves them to retire within themselves.

The labour at which the convicts in separate confinement are employed must necessarily be different according to the method, nature, and duration of the imprisonment. A merely mechanical employment is so far injurious, in associated imprisonment, as it leads to intercourse between the convicts ; but precisely for the same reason—that is, from the excitement caused by finding in it a means of prohibited communication—it loses its injurious effects on the intellectual faculties. The same kind of occupation, which can be safely carried on in associated imprisonment, would, in long years of separation, lead to torpor of mind, and a total blunting of all the intel-

lectual faculties. Those prison systems which would reduce all imprisonment to separate confinement, and carry it on without limitation of time, should be mainly guided by the principle that compulsory labour, under such circumstances, ought to be of a changeable character, as exciting as possible, and not merely mechanical.

In Ireland, on the other hand, cellular imprisonment does not overstep a determined and moderate limit, regulated by circumstances. During this period compulsory labour is kept decidedly in the back ground. The period of nine months' isolation is principally intended that the convict may be induced to know himself, to repent for the past, and make good resolutions for the future. The instruction given will make clear the amount of his guilt, as it will point out to him the real duties of life. The effect of this instruction, combined with the powerful perception of penal restraint, to which he has been now first subjected, must be as free as possible from all opposing influences, so that at all other times the tone of thought, which that instruction has called forth, should continue to occupy and regulate his mind.

The convict's attention should not be absorbed by the form of the penal labour. For this reason the most dry, most tedious, and most unengaging of all occupation has apparently been chosen in Ireland. The adults confined in Mountjoy are employed in picking cocoa-fibre ; the juveniles in tailoring, shoe-making, and other similar work. By employment in

such mechanical labour it is thought that the opposition to instruction which prevails so much in Ireland may be effectually overcome.\*

In the Third Report the directors themselves acknowledge that the employment of the juvenile prisoners at Mountjoy has not answered the object for which it was intended. The want of opportunity is alone the cause why agricultural labour, in the open air, has not yet been adopted for the juvenile prisoners. The establishment now in progress at Lusk is intended to supply this species of labour.

\* The author appears to have formed his opinion of all the lower classes in Ireland from the exceptional cases of repugnance to instruction shown by ignorant convicts in Mountjoy Prison. We have already set this matter right in our note, page 56.—*Translator.*

## CHAPTER VI.

## COMPULSORY LABOUR IN ASSOCIATION.

THE second stage of the Irish system of punishment consists in hard labour in association. The convicts work in the open air, and are principally employed in constructing the fortifications of Spike Island, which is situated in Cork Harbour. [My information respecting Spike Island is derived from the Fourth Annual Report of the Directors, which contains two reports on the general circumstances of the prison ; two from the medical officers, seven from the chaplains of the different creeds, and three from the school teachers.] Hard labour is the characteristic of this second stage, and in it the chaplains and school teachers do not hold so prominent a position as in the cellular stage of imprisonment. The great number of convicts in this, the largest of the Irish prisons, and the shortness of the time which could be spared from hard labour, renders it impossible sufficient attention should be given to the instruction of each individual. [In the years 1856 and 1857 1,500 prisoners were confined in Spike Island. See Third Report, p. 167.

Separate cells have lately been commenced on the island to enforce cellular imprisonment when required as a disciplinary punishment for bad conduct, and to prevent the necessity of sending such prisoners to the distant prison at Mountjoy. Here, and at the Forts

Camden and Carlisle, connected with the fortifications, the prisoners are employed partly in the formation of earth-works, in raising water, and in constructing fortifications for the War Department, and partly in the repairs of the prison itself, where they work in the open air, and are engaged as carpenters, masons, smiths, and stone-cutters.

In their fourth annual report for 1857, the Directors complain that much useless labour "in hauling carts of earth, &c.," is spent on works which could be much better done by the aid of machinery. The principal defect in the working of the convicts at Spike Island seems to be a want of uniform independent direction by the prison authorities. As long as the more immediate arrangement of the works is dependent on a separate direction, such as the War Department and that of the Royal Engineers, interruptions, irregularity, and a deficiency in the amount of work done will be unavoidable. A similar defect was formerly observable in the administration of the Bagnes in France, and prevented their working in a satisfactory manner. Another defect of Spike Island is that the works are unfavorably circumstanced in comparison with Portland Prison, on the south coast of England, where the stone quarries can be worked with much greater regularity.

The labour of the convicts in the three penal stations of Spike Island, Forts Carlisle and Camden, has been lately so arranged, that although the work is similar in all, different features are developed in

each. The prisoners are first confined at Spike Island, then are drafted to Fort Carlisle, and afterwards to Fort Camden, which has been constituted an intermediate prison, the worst always remaining at Spike Island.

The working hours, with an interruption of one hour for dinner, are in summer from seven o'clock in the morning until six o'clock in the evening, and in winter as long as day-light continues.

A former military barrack is occupied by the prisoners, where they remain when not employed at labour. The old dormitories of this building have been divided into separate sleeping cells, formed by partitions of corrugated iron and wire netting, which can at any time be removed if necessary. Personal intercourse between the convicts during the night-time is thus rendered impossible, but not conversation, a circumstance to which no great importance seems to be attached.

It is apparent from what has already been said that, as compared with Mountjoy Prison, Spike Island may fairly be considered by the prisoners as a great alleviation of punishment and a step in advance. The severe labour at which the convicts are employed is more than compensated by the possibility of a limited intercourse with their fellows, and by the work being in the open air.

This system of hard labour in association, carried on in the open air, as pursued in England and Ireland, is founded on the supposition that suitable

works for such labour can always be procured within the precincts of the Convict Depôt. Under such circumstances the labour still preserves its penal character, as being severe, inexpensive to the state, unprofitable to the convicts themselves, and altogether excluded from association with the free labour of the working classes outside.\* All these conditions, which are so seldom found united, are combined both at Portland, in England, and at Spike Island, in Ireland. Even Béranger acknowledges, in reference to this subject, that under such circumstances the abuses of the French bagnes could have been prevented. There need be no fear of a deficiency of work of this description in Ireland, as the construction of the coast defences will probably occupy the attention of government for a long time.

The intrinsic nature of this second stage of punishment is usually denominated “Penal and Reformatory”—reformatory because the classification enables the convict to rise gradually from a lower to a higher class, and so obtain a shortening of the period of punishment in the particular class to which he belongs.

The power of shortening the punishment by good conduct is equally applicable in the second stage as in the first. The time to be spent in this stage is so

\* The correctness of this remark is shown by the abuses which have arisen in the works at the Bermuda Islands, where such separation of convict from free labour does not exist (See Mr. Trollope's work, *The West Indies and Spanish Main*).—*Trans.*

arranged that the prisoner's conduct regulates the period during which he is to remain in each class ; but there is a minimum time which he is bound to go through. (See, on this subject, Rev. Mr. Shipley, page 135.)

The lowest class, "Probation Class," consists of those who either could not remain the full time in separation at Mountjoy, or who, during their cellular imprisonment, received bad marks for misconduct. Promotion from this class depends entirely on the good conduct of the prisoner himself. The period of time spent in it is never considered, and when his conduct is very bad he is, besides, subjected to severe discipline, and cannot be promoted without permission from a Director. According to the rules drawn up in 1855, prisoners in this class, although they work in the open air, are, as far as circumstances permit, subjected to the same rules as those confined on the cellular system, so that all intercourse with each other is as much as possible prevented, and also the influence of the chaplain and schoolmaster is brought to bear on them more than on those in the other classes. [See 2nd annual report, appendix, page 152]. How far this really can be accomplished is not very apparent.

Next follows the third class, containing those who have been well-conducted during separation. The shortest period to be spent in this class by the best conducted prisoners is two months, others not so good spend three, and those whose conduct has been indif-

ferent, six. This graduated scale is also carried out in the other classes.

In the next, or second class, six months is the minimum period for the best conducted.

In the first class the shortest period is twelve months, after which they are further promoted into the "exemplary class" ["Advanced Class" is now used, as the word "exemplary," applied to a criminal, is very properly considered unsuitable].

This is the highest step in the scale of classification, and the time the prisoner remains in it depends, not on his conduct, but on the unexpired period of his sentence.

There is a power to degrade corresponding with the advancement through those five classes, with this difference, that when the prisoner is degraded, several classes may be passed over to the third ; and after degradation, the classification to be commenced again, does not necessarily pass through the time laid down for each class, but is altogether dependent on the arbitrary decision of the governor ; such a power must necessarily be given to him, for if the prisoner had to pass regularly through all the stages a second time, the sentence of the judge might be overstepped.

The labour at which the convicts, in these different classes, are employed, is the same; but there are certain distinctions between each class, for example, dress, degrees of strictness in discipline, and badges. The advanced class wear a dress of entirely different colour from that of the other prisoners.

Two descriptions of badges are used, one to distinguish the prisoner from his fellows, and the other as a disciplinary means of improving his conduct.

1st. The register badge, which is worn by the prisoner, on his right arm, has recorded on it the initials of the kind of punishment to which he is subjected [T. transportation ; P. S. penal servitude], his register number, and the length of his sentence.

2nd. The conduct badge is worn on his left arm. It records the conduct of the prisoner, his class, and the number of marks he must earn before he can be eligible for promotion to a higher class. For instance the minimum period which he must spend in the classes is expressed by the number of marks which he must earn to be promoted, and the number which he has earned up to that time is, at the beginning of each month, also affixed to his badge. Very good conduct is denoted by three marks, good conduct by two, and indifferent by one each month. The amount of marks given to the prisoner is regulated by three different circumstances : his conforming to the discipline of the prison, his conduct in school, and his industry at work. These are recorded in separate books, kept for the purpose. If for discipline, attention at school, and industry he receives three marks for each (the highest given) he will receive nine marks ; and if his conduct is but middling in each, he receives only three marks altogether for the month. As the shortest time he is to remain in the third class is the period during which

he is earning eighteen marks (two months), as has already been explained, it follows that he must have earned nine marks, the highest possible number, in each month (altogether eighteen) to enable him to obtain promotion into a higher class within that time.

At first sight this system of badges appears very artificial and difficult to be carried out, but on examination it will be perceived to be extremely simple and suited for the purpose. The system could easily be managed without the aid of badges, by having the marks earned each month by the prisoners simply entered in a book ; but, before we decide for or against their use, we should consider whether they are really effective, in a disciplinary point of view ; and, for this purpose, we must take into account the manners, customs, and habits of thought of the lower orders. I do not, however, consider that it would be desirable to introduce into the German prisons this system of giving honorable distinctions to criminals, as no matter how impartially distributed, errors might still occur. It might easily happen that the estimation in which the conduct of the prisoner is held by the prison officers would not correspond with the better founded opinion entertained by his fellow-prisoners, who have greater opportunities to observe him more closely, and to discover his hypocrisy, should such exist. If this were to happen the moral tone of the prison would certainly be endangered.

The system of marks is carried out and completed

by means of two other books—the misconduct-book and the general-character-book, which are intended to show the conduct of the prisoner.

In the general-character-book is recorded the crime and sentence of the prisoner, all the information which may have been received, relative to his previous convictions and general character, in the prisons in which he had been previously confined ; all reports of disciplinary punishments recorded against him, together with the number of marks which have been, from time to time, given in his favor, and other observations relative to his conduct, character, and disposition. The character-book is, therefore, composed partly of extracts from other reports, and partly of matters which could find no suitable place elsewhere.

The misconduct-book is the opposite record to the badges, and registers offences, in a corresponding manner. Reports of misconduct are classed under one of the four divisions which suitably express the greater or less amount of the offence. As the designation for conduct “exemplary,” “good,” and “indifferent” are represented by numbers, so faults are classed under the following heads : “slight ones,” “misconduct in the first degree,” “second degree,” and “third degree.” Faults of the third degree, therefore, express the greatest amount of misconduct. The word “nil” is entered when the offence is not proved or is satisfactorily explained away.

To understand the classification for misconduct,

we must briefly consider the rules, according to which punishments are inflicted : " slight offences," which consist in neglect of, or inattention to the rules and discipline of the prison, when proved, are awarded " deprivation of one meal," or other punishment not heavier than one day's close confinement with half rations ; " misconduct first degree" is an offence for which the governor considers it necessary to award a heavier punishment than that above-mentioned, not exceeding three days' close confinement, with bread and water diet ; for this offence the prisoner is liable to have the period of service in his class prolonged, or he may be degraded one class. Offences to which these punishments may be applied are therepetition of " slight offences," and also decided and wilful misconduct, but not of an aggravated nature.

Misconduct second degree is a repetition of misconduct of the first degree, or any offence for which a Director shall award punishment, not exceeding fourteen days' separate confinement ; for these offences a prisoner is liable to be degraded from any class to the third.

All other offences, for which it shall be necessary to award a more severe punishment than fourteen days' close confinement, such, especially, as degradation to the probation class, are considered as " misconduct third degree."

It may be remarked that, in awarding these punishments, a line is drawn between the powers of the governor and of the Directors, and that all offences

requiring a more severe punishment than three days' separate confinement are reserved for the decision of a Director, who, after an exact examination into the whole case, is enabled to form an unbiassed judgment. The printed forms which are made use of for this purpose are, according to the Rev. Mr. Shipley, about three feet long and one broad.

We shall now conclude with an explanation of the system, according to which gratuities are granted to convicts in the second stage. [On this subject Dr. Behrend appears to have entirely misunderstood the objects for which gratuities and badges are intended. At page 168 he says : "There are certain inclinations and impulses, which, if rightly directed, will lead to good as they have led to evil. To these belong, above all, an anxiety to obtain money, an inordinate love of enjoyments, vanity, and ambition, and it is to work on these passions that the distinctions of badges and gratuities have been introduced!"]

The principle on which gratuities are established is, that no prisoner has any claim to wages or remuneration of any kind, but a certain gratuity is credited to him, according to the class to which he may belong, and the industry which he displays.

The gratuities according to classes are as follows : In the probation class no gratuity is given; in the third class, one penny per week; in the second class, two-pence, and in the first-class, for the first six months, three-pence ; and for the second six

months, fourpence. In the advanced class seven-pence. Prisoners, by extra exertion and industry, are eligible for a further gratuity, not exceeding two-pence, so that the highest gratuity which can be obtained is nine-pence a week (equal to one thaler ten silver groschen per month).

The amount of gratuity due to the prisoner is paid immediately,\* if he be discharged unconditionally ; and, if he be discharged on ticket-of-licence, it is paid by instalments within three months, or else the money may be, at the discretion of the Directors, laid out for his benefit.

As no legal claim exists for gratuities, it follows, of course, that prisoners misconducting themselves may forfeit their gratuity ; a prisoner who shall attempt to escape, or be guilty of any act of violence or outrage, or be deemed incorrigible, forfeits every gratuity previously placed to his credit.

The sums paid for gratuities in Ireland are very small when compared to those allowed to convicts in the English prisons. An Irish convict can, with the greatest exertion, seldom succeed in obtaining more than four or five pounds, whilst a convict in the Bermuda Islands, or at Portland, may earn a little capital of from ten to fifteen pounds. [Captain Crofton remarks, in his notes, page 2, that by comparing the scale of gratuity earned by two equally hard-working convicts in the two countries, it will be seen that the

\* This is not quite correct ; the same general rule applies to both cases.—*Translator.*

gratuity in England during the first stage is fifteen pence a-week, while in Ireland it is only one penny; and during the fourth stage it is two shillings and three pence in England, while in Ireland it is only nine pence, and, including the amount earned in the intermediate prisons, an Irish convict receives about half what would be earned in England during four years' penal servitude in each case]. During the probation stage of cellular imprisonment no gratuity is allowed either in England or Ireland. The principle on which the amount of gratuities in the intermediate stage is founded will be specially mentioned in another chapter.

The very favourable effects produced by classification, promotion, and the distribution of badges, the distinction in dress, and the gradual increase in the amount of gratuity earned by the convicts, has been repeatedly mentioned by those who have written on the subject [see Rev. Orby Shipley's "Purgatory of Prisoners," page 145]. The high value which the Irish convict places on outward distinctions is shown by the marked effect which is produced on him by their withdrawal.

The avoiding of large gratuities in the early stages, and the holding out of encouragement by classification and gradual promotion to a higher stage, are deserving of the highest approval, as a prospect of large rewards should on no account be held out during the early period of punishment.

From the evidence given by Captain Crofton before

the Parliamentary Committee of 1856, on the subject of gratuities for convict labour and their amount, he appears to have been influenced principally by the fear that should convicts accumulate a large capital against the time of their discharge, it must weaken the effects of penal repression on the free population, who might look with envy on the large sums acquired by convicts who have returned from the Bermuda islands ; latterly, however, this apprehension appears to have died away. It is hard to say what amount of gratuity should be given ; this much, however, is certain, that high gratuities to convicts during their period of punishment essentially injures the penal character of compulsory labour. By giving payments of nearly three shillings a week, along with their support, as is the case in England, the bounds of economy seem to be considerably overstepped. We doubt, also, very much, whether that system is the right one which grants gratuities to the convicts as a mere reward for good conduct.

In such granting or withholding of gratuities there is too much room given for caprice, or at least for mistakes, which must frequently occur in forming a right judgment of the conduct of each prisoner.

When the convict has passed through the several classes, and remained the prescribed period in the advanced one, he may then be removed to an intermediate prison. His fitness for this promotion is decided by the Chairman of the Board of Directors, who, for the purpose of ascertaining his qualifications,

institutes direct communication with the subordinate officers of the prison.

In concluding our description of this stage of compulsory labour in association, we may observe that as to the further carrying out of the sentence, one of two courses is pursued towards the prisoner ; either he is retained in the prison in which he has hitherto been (as is the case if his conduct is bad), and he may remain in it until he has completed the full term of his sentence, or else he is removed to an intermediate prison as a preparation for conditional discharge or license. The circumstance that seventy-five per cent. of all the male convicts have been found deserving of removal to an intermediate prison proves that the result of compulsory labour in association, following cellular imprisonment, should not be undervalued.

## PART III.

### TRANSITION STAGE—INTERMEDIATE PRISONS.

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#### CHAPTER VII.

##### GENERAL FEATURES OF INTERMEDIATE PRISONS AND REASONS FOR WHICH THEY WERE ESTABLISHED.

Detention in intermediate prisons constitutes the third stage, and is the peculiar feature of the Irish system. These prisons were first established in 1856, since which time they have attracted very general attention. The principles on which they are founded have been thoroughly investigated, and not unfrequently found fault with. [Dr. Behrend, the head physician of the Berlin police, apparently misled by the name given in the Rev. Mr. Shipley's work, "the Purgatory of Prisoners," calls this system in a mistaken sense: "The purgative system," see History of Prison Reform, page 157.]

The chief reason for the introduction of these establishments into the prison system appears to be that great difficulty is felt in providing for prisoners after their discharge. It did not escape the acute observation of Captain Crofton that mere penal discipline, during detention, was, in itself, insufficient to retain its influence over the after-life of the con-

vict, when freed from its control. In a communication to the Irish government, in Nov., 1855, he expresses himself on this subject as follows :—

“ The reformability of the generality of criminals “ has been admitted, after a laborious investigation by “ a Select Committee of the House of Commons, in “ 1850, and their opinion has been corroborated by “ facts and figures in abundance. The acknowledged “ object of all prison treatment being, so to direct “ its deterrent and reformatory course, as shall best “ conduce to the required results—viz., the diminu- “ tion of crime ; it is considered that this result is “ obtained by a judicious combination of penal and of “ reformatory treatment. The present system com- “ mencing with the deterrent, is followed by a course “ of penal and of reformatory discipline. The success “ of this system it is proposed to test, previous to “ the release of any prisoner, by the introduction “ of a third stage, in which the reformatory element “ shall preponderate, as does the deterrent element “ in the first stage. This course, it is maintained, will “ protect the community. It will also tend to the “ present as well as to the future improvement of its “ guilty members.

“ The great difficulty with which discharged pri- “ soners have to contend, is ‘the want of employ- “ ment ;’ and so long as this difficulty exists, so long “ will the criminal population, reformed or unreformed, “ remain a distinct portion of the community ; and so “ long will their absorption be a matter of impossi-

“ bility. It is obviously, therefore, a primary object  
“ to endeavour to remove this obstruction, by consi-  
“ dering its cause, and by proposing its remedy. We  
“ have been asking the community to receive, and to  
“ employ the reformed portion of our discharged  
“ criminals ; the guarantee for such reformation being,  
“ that their character in prison has been exemplary.  
“ But the community do not consider that a character  
“ obtained under an absence from the temptations to  
“ which prisoners would be exposed in the world, is a  
“ fair test of reformation. They therefore decline  
“ accepting this evidence ; and refusing to employ  
“ such criminals, thus reject the really reformed, who  
“ are included in the category as untested.

“ The proposed stage of reformatory treatment  
“ places a prisoner where he can be assailed by  
“ temptations, and where the public will have an  
“ opportunity of judging of his reformation, of his  
“ industrious habits, and of his general fitness for  
“ employment. I firmly believe that it needs but satis-  
“ factory evidence of this fact to bring together the em-  
“ ployer and those meriting and seeking employment. I  
“ firmly believe that this probationary stage acting as  
“ a filterer between the prisons and the public, may  
“ be made the means of distinguishing the reformed  
“ convicts from the unreformed, before and after  
“ leaving their several places of confinement ; and I  
“ believe the separation, operating as an important  
“ channel for amendment and prevention, will exer-

“cise an influence over the criminal population—the value of which cannot be too highly appreciated.”

To enable convicts to make an approach to society previous to discharge, was, therefore, the object which Captain Crofton had in view when he proposed the establishment of intermediate prisons. The want of due preparation before conditional discharge on licence had until then altogether paralysed the beneficial results which might otherwise have been expected from it. Even if the prospect of discharge on licence had during imprisonment held out to the prisoner such an inducement that he was anxious to change his life, still results otherwise favorable were prevented, because a convict conditionally discharged on licence was even less trusted by the public, than the man who had completed his full term of sentence. In this was shown the singular circumstance, that the opinion of the employer was diametrically opposed to the judgment of the prison authorities. The public at large, not being conversant with prison matters, did not consider that there was anything more in the good conduct of a prisoner discharged on licence, than a certain amount of hypocrisy ; and it was believed, with perfect justice, that strict observance of prison rules and discipline can never, by itself, be a fair criterion to enable us to judge how a prisoner will conduct himself after he has obtained his liberty. Lastly, there was not, up to that time, any provision or assistance for prisoners discharged in Ireland. To remedy these deficiencies

intermediate prisons were established on the plan proposed by Captain Crofton. As coming between strict penal discipline and conditional liberty on licence, intermediate prisons possess the same great influence on the moral advancement of the prisoners—which is exercised by the prospect of conditional discharge—at the same time that they do away with the injurious results caused by the prejudices, in the public mind, against prisoners so discharged ; but independent of this negative good, another, and the most important object effected by them is, that the moral being of each individual prisoner is gradually elevated into energy of action, from the state of passive endurance resulting from the severity of the discipline to which he has been accustomed.

There is no doubt but that the feeling of restraint continues in the mind of the convict during the intermediate stage, and, therefore, intermediate prisons belong to the general prison system ; while the freedom of action, which is allowed entails a greater amount of moral responsibility, and imposes a stronger necessity for the exercise of self-control, to perform the duties required by the prison rules ; every infringement of which draws down upon itself a certain and perceptible penalty. The discipline which presides over the establishment is always felt, although in a certain degree invisible, and is sustained rather by the inward sense of duty in the mind of the convict himself, than by external restraint. There is, it is true, a greater opportunity for the manifestation of

real character, and the exercise of free will ; yet the consequences of every action are quite certain beforehand, and faults against order and discipline will entail just as severe and as certain punishment as in the previous stages.

The pshychological principle brought into action in intermediate prisons is, that greater interior responsibility will be felt in proportion to the greater exterior liberty of action, which is permitted to the convict. There is, in fact, a compulsory working of the mind, consequent on his absolutely dependent position as a prisoner, combined with the responsibilities of a free agent with regard to duties which he struggles to fulfil, as his conduct must be more strictly conformable to discipline, than in the previous stages of punishment ; and faults which might possibly have been passed over in Spike Island, are never overlooked in the intermediate prisons. It is possible that detention under such moral restraint is harder to be borne, and exercises the powers of the soul more than the forced discipline which the prisoner endures in a common jail. We have many proofs that this is found to be the case, in practice ; and, it is a remarkable fact, that some convicts have desired to be sent back to prison from the intermediate establishments ; because, according to their own statement, they were unable to fulfil the conditions imposed upon them. They thought it preferable to be placed under physical restraint, which was continually before their eyes, than to be obliged to

make the more painful effort, which the taking the responsibility of their own actions would entail.

For these reasons, the Irish intermediate prisons may be regarded as a part of penal discipline ; and, precisely on that account, they are sufficiently distinct from reformatories and refuges for discharged prisoners, which some proposed. [Rev. Orby Shipley, in his "Purgatory," has not observed this difference, as he confounds intermediate prisons with refuges, a mistake into which most English writers fall.] Without denying the utility of the latter, in those countries where punishment is carried out with monotonous severity, from the beginning to the end of the sentence, it is, however, my opinion, that intermediate prisons are fundamentally different from them. When we compare the position which refuges and intermediate prisons hold, with regard to each other ; we may look on the former as a sort of cloistered seclusion, into which the individual enters, conscious of his own weakness and fearing contact with the exterior world ; while the latter accustoms the mind to active acquaintance with the obstacles and dangers of real life, which it endeavours to surmount and avoid.\* The refuge

\* The author, apparently misled by the name, confounds the Irish refuges for female convicts with asylums for discharged prisoners. They seem to have been called refuges and reformatories to disconnect them in name as much as possible before the public with prisons, as a constant correspondence must necessarily be kept up between the manager of the institution and the fathers, husbands, and friends of the inmates, and also with

is a legal acknowledgement of human weakness, and still more, a safe asylum, instituted by the country to make up for the proved inefficiency of the penal code. The intermediate prison is a living proof that reformation is possible, as the convict himself labours to attain it, by applying all the powers of his mind to carry out the ends of punishment, in his efforts to efface his guilt.

The general principles on which the management of convicts in the intermediate prisons rests, may be laid down as follows :—1st, the labour of the convict

persons seeking for servants and workwomen. All writers who have visited these establishments recognize the difference, and that they have all the characteristics of true intermediate prisons. The prisoner remains in them for a limited time for the purpose of testing character for industrial training, and to obtain employment after discharge. The asylum, on the contrary, is intended for such only as feel themselves unfit to return to society, the temptations of which they are unable to resist. It does not belong to the prison system, because the inmates are no longer prisoners but free agents, and voluntarily retire to it to avoid danger and a relapse into crime. No person can deny the great value of these institutions, especially in a country like Ireland, where patronage societies do not exist, but their object is quite distinct from that of the Irish refuges. The Irish directors appear to have turned their attention to these asylums also. In their Fourth Report, when speaking of women whose constitutions, broken down by their former life, incapacitate them from being employed as servants or being fit subjects to emigrate, they say : “ Many whose evil habits might have been supposed to be confirmed, are at the end of their sentences willing to spend the remainder of their days in an asylum. The lady managers of the Golden Bridge Refuge have founded such an asylum, supported by voluntary contributions, at Kingstown, to receive a certain number on discharge from the refuge.” See Fourth Report of Irish Directors, page 21.—*Translator.*

forms a preparatory fund for his support on discharge ; 2nd, the instruction given must have principally a practical tendency ; 3rd, by it the convict is roused into active exertion by the greater amount of liberty given, and that exertion is brought into play chiefly by the withdrawal of external restraint. The principle of individualization also takes a prominent place in the management ; and controls all the others, that is to say, the mind of the individual is formed in accordance with the good principles called forth by the preceding penal discipline and instruction.

For this purpose it became particularly requisite to avoid overcrowding the intermediate prisons, and the number in each is limited to one hundred individuals.

Moveable iron huts for prisoners, which Captain Crofton has been the first to introduce, seem particularly suitable for this purpose. Each of these is made to accommodate fifty prisoners, and is easily moved, should a change of place for the employment of the convicts be ordered. [These moveable iron prisons are particularly described in "The Report on Transportation, 1856," question 1510. They are similar to those which were used in the Crimea, and at the camp at Aldershot, and cost £330 each. On the ground of durability, they are a most proper expenditure for the purpose. See table of expenses, in the Appendix No. 4].

The success which has invariably followed from the treatment of convicts in the intermediate prisons, is specially detailed by Captain Crofton, in a memo-

randum, first printed separately and afterwards appended to the Fourth Report of the Directors of Irish Prisons. In this document the following ten questions are thoroughly investigated :—

First. Whether or not, the grounds on which employers formerly refused to take convicts into their employment—viz., the insufficient guarantee of an ordinary prison character, is applicable to the intermediate establishments ?

Second. Whether or not, the character of the prisoners employed gives satisfactory evidence of the value of their training ; and how proved ?

Third. Whether or not, during the time of detention in the intermediate prisons, the convict has shown sufficient amenability to the rules, and whether or not the industry evinced by convicts in this stage exceeds that observable in the ordinary prison ?

Fourth. Whether or not, the privileges allowed in the intermediate prisons have conduced, in practice, to the existence of tests of character, and in what particular ?

Fifth. Whether or not, the system of instruction imparted, principally by lecture, answers the purpose for which it was intended—viz., to make it so interesting as to induce the aged and the most backward to persevere in attaining knowledge ; and whether or not, there are any, and what good grounds for supposing that the gratuities given to convicts, by the government, and intended as aids in their future career, are really so ?

Sixth. Whether or not, the results being proved morally beneficial, it can be shown that the labour of the convicts, performed under such a system, will be economical to the state, and particularly applicable to the condition of the United Kingdom at the present moment ?

Seventh. Whether any per centage of convicts may be proved to be so impressionable as to be profitably subjected to the special treatment in the intermediate prisons.

Eighthth. Whether or not, the intermediate system of prison discipline will tend to work out satisfactorily the Act of June 26th, 1857 ; entitled, " An "Act to amend the Act of the sixteenth and seven- "teenth years of her Majesty, to substitute, in cer- "tain cases, other punishment in lieu of transporta- "tion."

Ninth. Whether or not, beneficial results may be expected from penal servitude in Western Australia under the Act of June 26th, 1857 ?

Tenth. Whether or not, good results have been experienced by placing female convicts in refuges ?

Without entering into the details of all these questions, we shall confine ourselves, in our description of the Irish intermediate prisons, to the three essential points : compulsory labor, instruction, and general discipline. The subject of tickets-of-licence is usually discussed in connexion with intermediate prisons, because the merit of the Irish system has generally been supposed to lie in the combined

effect of both; but we cannot admit this to be correct. On the contrary, conditional liberty is a special arrangement, which must not be confounded with intermediate prisons ; for, on the one hand, they might most beneficially exist without it ; and on the other, conditional discharge might follow, immediately, any particular penal stage, as is the case in England. It can, therefore, only be said, that the value of release on licence is much increased by intermediate prisons, but is not exclusively dependent on them.

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## CHAPTER VIII.

OPINIONS OF ENGLISH WRITERS ON INTERMEDIATE PRISONS,  
AND OBJECTIONS TO THEIR ADOPTION.

WHEN discussing the question of the Irish prison system, most authors agree in attributing its chief importance, and the greatest share of success which it has obtained, to intermediate prisons. Latterly, however, Colonel Jebb has strongly opposed the application of the system to England, and has raised objections against it, to which we shall afterwards refer.

Recorder Hill has taken a prominent place amongst the distinguished writers (not German), who have defended the system ; and at the meeting of the National Association for the Promotion of Social Science, in 1857, he gave a lucid exposition of the subject. The Earl of Carlisle, Viceroy of Ireland, a nobleman whose testimony bears the greatest weight, not only from the high official position which he holds, but also because he has long and practically studied the question, read in the following year (1858) before the same society a paper, in which he confirmed all the statements and observations previously made by Recorder Hill. To his Excellency, Lord Carlisle, is also due the honor of having, above all others, promoted the success of the intermediate prisons, by

the active and personal interest he has taken in their management. His frequent visits to Smithfield prison, where, according to Captain Crofton [Report on Transportation, 1856, qu. 1507), "he looked over every book and register three or four times a week," and his constant presence at the evening lectures, have enabled him to form a particularly correct judgment on the real merits of the system; a subject which cannot be thoroughly investigated and perfectly understood in a day, much less in an hour, the usual time devoted to it by most visitors, who are led by curiosity to visit the prison.

The question of priority in the use of intermediate prisons, which has been claimed for both England and Ireland, and has been the subject of much discussion, is, in itself, unimportant, and the decision on it cannot detract from the merits of Captain Crofton. Two circumstances have been pointed out by Colonel Jebb in his report on English prisons. The first, that for several years special service classes for well-conducted convicts have existed in the English prisons, particularly at Portland and Dartmoor; the second, that in a letter from Mr. Waddington, in the year 1853, the introduction of an intermediate stage between the prison and discharge was recommended as desirable for women.

Although there can be no doubt that the idea of the present system of Irish intermediate prisons was long ago entertained, and the subject of their introduction into the prison system has been repeatedly

discussed ever since the number of discharged convicts who relapsed into crime have proved the ineffective state of prison management, nevertheless it must be admitted that it was in Ireland that the true principle, on which the system is founded, was adopted and worked out in a thorough and comprehensive manner. To originate a plan and carry it into execution, are two very different things, and each party may lay claim to special merit, and take credit for the favorable results which have been accomplished. [In outward appearance the special service classes, particularly those at Dartmoor, are very similar to the Irish intermediate prisons. Colonel Jebb, when describing the state of the convicts who compose them, uses the peculiar expression "ticket-of-leave within prison," an expression of official irony! The governor of Dartmoor describes the condition of these special classes, in his report for 1852, as follows :—"I have likewise, under "your sanction, selected men of exemplary character, "who have performed a large portion of their term "of imprisonment, and whose crimes are not heinous "ones, to be employed on special service. This "consists in looking after the cows, horses, pigs, "driving carts, and carrying tools to the prison for "repairs from their respective gangs. These men "are not under the charge of any particular officer."]

Reformatories for female convicts may, at all events, be considered as the first commencement of the system of intermediate prisons. It was clearly manifest that

this class of prisoners required energetic assistance on discharge from prison, and it was the same reason which caused the founding of these establishments that called into existence the Irish intermediate prisons, which are only for men, but the principle is expressed more clearly and developed under a different form in intermediate prisons, and there is this essential difference between them and refuges, that, in the asylums for women, the government is satisfied with superintending the action and management of private individuals or private associations, whilst the entire management of the intermediate prisons are in the hands of the government. In practice, however, both these institutions can be so much assimilated, that every intrinsic difference disappears in the working of them, as is shown to be the case in Ireland.

As regards the special service classes, at Portland and Dartmoor, they cannot be compared with the Irish intermediate prisons, because it is a peculiarity in the Irish system, that convicts in the intermediate stage do not reside in the same place as the prisoners who are in the earlier stages of discipline. And here a new question arises—namely, whether this circumstance is essential to the successful carrying out of the system.

As the course of penal discipline in the earlier stages, and until the removal to intermediate prisons, is the same in England as in Ireland, it would be easy to transplant the Irish system to England as far as outward appearances are concerned. But it must not be imagined that by the erection of several iron

huts, in the neighbourhood of Portland, all that has been accomplished by prison management in Ireland would be effected. Colonel Jebb, in his report for the year 1857 (see page 97), gives it as his opinion that there is a mere external difference between the Irish intermediate prisons and the prisons in England where convicts work in association. He says :—

“ Suppose that the best men were withdrawn from “ the quarries at Portland, that they were relieved alto- “ gether from the superintendence of the superior “ officers, were placed under warders and lodged at “ night in the huts in which they now only dine, they “ would be in the same relative position as the men in “ one of the iron huts in Ireland. It needs but the “ order, and this arrangement might be carried into “ effect on the afternoon of the day on which instruc- “ tions were received. Double their gratuity and “ grant some other prospects of advantage, and there “ would exist the same busy scene as at present; some “ squaring the stone and building the magazines; others “ quarrying the ditch or forming the ramparts. There “ might perhaps be a little more exertion under the “ new stimulus, but that would be all.”

It appears from this extract that Colonel Jebb does not consider the system of management in Ireland as distinct and different from that in use in England ; on the contrary, he believes that the particular alterations which have been effected in details in Ireland are of such trifling importance, that it does not deserve the name of a different system. This much,

however, is quite certain, that, as compared with the English system, there can be no question but that the Irish intermediate prisons show decidedly distinct features, which should in no case be undervalued as they have been by some.

We shall conclude by considering two objections, which Colonel Jebb has raised against the principle on which the Irish intermediate prisons are founded. He states :—

First, that there is danger that, by the less severe discipline of intermediate prisons, the deterrent element of the punishment may be diminished ; and secondly, that by the promotion of well-conducted convicts to the intermediate prisons the good effect of their example will be lost.

With regard to the first point, it is manifest that all opinions concerning the deterrent nature of different kinds of punishment can only be considered as the mere expression of the views of an individual on the subject. The same objection, as to the deficiency of the deterrent element, has been made to cellular imprisonment, and also to the system of association, in all its forms; and, therefore, it cannot be regarded as a good criterion of the effectiveness of any species of imprisonment. The only question which it is of importance to decide is, whether the real elements of penal repression are contained in the principle on which the system of imprisonment is founded : that is to say, whether it exercises a moral restraint on the individual. The question, which kind of punishment is most deter-

rent, will, probably, never be agreed on by the adherents of the different prison systems.

The second opinion expressed by Colonel Jebb, that well-conducted convicts may improve their bad fellow-prisoners by associating with them, is founded on the influence which prisoners in association are supposed to exercise over each other, and we have certainly as good reason to believe that by conferring on certain well-conducted prisoners the duties of prison warders, they are exposed to be themselves corrupted by association with their more vicious companions, a circumstance not to be overlooked, and which may with equal justice be used as an objection against the method adopted in England.

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## CHAPTER IX.

## DISCIPLINE IN INTERMEDIATE PRISONS.

ALTHOUGH there can be no doubt that a very strict discipline is exercised in the intermediate prisons, and that, consequently, they may be considered to form part of the punishment of the criminal, there exists, nevertheless, between them and the previous stages of punishment a considerable difference, which we shall here endeavour to point out. Rev. Mr. Shipley, writing on this subject, says : “ All, or nearly all, “ connection with a prison life is suspended, even to “ the mere outward man, the growth of the hair, and “ the dress of the tradesman. Past offences and past “ punishments are never mentioned, or are only men-“ tioned with a special and exceptional intention. “ The men, more even than in the penal establish-“ ments, are treated as men—as human beings—as “ beings endued with reason—as reasonable creatures, “ who have acquired the sense of accountability—as “ accountable agents, who have now a character to “ win, and a character to lose ; in a word, as Chris-“ tians. This humanising treatment—this appeal to “ the culprits, as men capable of gratitude, of repen-“ tance, of reformation, of self-dependence, of self-“ control, is, certainly, new in the treatment of con-“ victs, but is no less new than truthful.”

In order to become perfectly acquainted with the

disposition of the prisoner in the intermediate prisons, frequent opportunities of testing it are sought: convicts are sent through the country as messengers and trusted with little commissions. We are assured by all unprejudiced witnesses, that the return of the prisoner sent on these messages was never delayed beyond the necessary time even for a minute. Captain Crofton's evidence given before the Committee of the House of Commons on this subject in the year 1856, is as follows :—“A carpenter having been required at the “model prison for some time, I have tried the ex-“periment, if I may so term it, of sending one of “these men every morning to this work through the “city, nearly two miles off, and back again, to return “to the lecture in the evening; and he has done “this for nearly two months, every day, no warder “with him; and passing by the public houses, he “returns regularly and performs the day’s work both “to the good of the public service, and to the satis-“faction of the prison where he is working.”—Question 1506, page 145.

Similar results have more lately been obtained, when large numbers of tradesmen and labourers were sent daily from Smithfield, to fit up the old jail of Newgate as a cellular prison.

At length, when the period of discharge from the intermediate prison is approaching, the convicts are allowed, without interference of the officers, and without supervision, to leave the prison for the purpose of purchasing tools and other articles which they may

require, to enable them to earn their bread after discharge.

Another means of testing their dispositions is the permission given to spend, as they please, a certain portion of their gratuities, sixpence weekly ; but this subject will be considered in the next chapter, when we come to speak of the gratuities given to the prisoners.

To counteract any possible abuse of the privilege of greater liberty of action thus granted to the convicts, it is a fixed and peculiar principle, that there shall be no disciplinary punishments in the intermediate prisons, but that every transgression of the rules of the establishment—every irregularity of conduct, shall be punished by the removal of the offending party back to the preceding penal stages. Of 1,300 convicts who passed through the intermediate prisons, during the course of a year and a-half, only twenty-six were thus sent back, and even of these, six were removed at their own request.

If we admit the principle on which intermediate prisons are founded, there can, of course, be little objection to this freedom from restraint joined with such very strong inducements for good conduct. We shall here quote the opinion of the chaplain and the medical officer of Smithfield Prison in reference to this subject. The Rev. Dr. Shore (Protestant chaplain) expresses himself on the general effect of the system as follows :—

“ It appears to me to be a very important feature in this system, that as each man advances

“ a stage in his course towards reformation, he is  
“ at each stage removed to another prison. The  
“ very fact of his being thus transferred to a new  
“ abode gives him the idea of reality in progress,  
“ which no nominal promotion would make him feel,  
“ while he remained in the same prison. Every  
“ such removal he feels to be a real sensible step  
“ towards liberty—and the results are obvious. I  
“ would add one fact : you have for some time past  
“ caused Fort Camden to be appropriated to a special  
“ class selected from Spike-Island prison, and those  
“ have been placed under a reformatory system of  
“ instruction nearly similar to that established here.  
“ Very lately a detachment of prisoners were brought  
“ up here from Camden Fort, and it required little  
“ experience or observation to see how far superior  
“ in mental cultivation, discipline, and moral training  
“ they were to even the best men we had received  
“ from the ordinary government prisons.”

The medical officer, Dr. Brady, testifies to a remarkable psychological phenomenon, which must have been noticed by many others. He says : “ Another, “ and by no means unfrequent occurrence observed “ in the convict prisons, and more especially among “ the prisoners, whose health has suffered from the “ long confinement, and who have been anticipating “ their approaching release from prison is, that when “ the prisoner is attacked with any serious disease he “ is at once prostrated both in mind and body, comes “ into hospital with the gloomy foreboding that he

“ will ‘never leave the prison alive,’ and lies down,  
“ as it were, to die hopeless and desponding, thus  
“ rendering all the resources of art unavailing. A  
“ very different spirit prevailed among the prisoners  
“ here since the change of management took place.  
“ In fact, they appeared to me, in most cases, rather  
“ to underrate the seriousness of their sickness, and  
“ to rely too much on their improved health, and  
“ were very anxious and eager to return to those  
“ duties, which have ceased to be distasteful to them.  
“ Those who have had an opportunity of observing  
“ the powerful influence for good or evil that mental  
“ feelings and emotions, hope and joy, grief and  
“ despondency, exercise upon the human body in  
“ sickness and in health, as well in the world out-  
“ side, as within the walls of the prison, will have no  
“ difficulty in comprehending that this buoyant state  
“ of mind, and hopeful spirit of the prisoners, must  
“ have largely contributed to produce the improved  
“ sanitary condition of the prison during the past  
“ year. It is almost unnecessary for me to observe,  
“ that with prisoners in this state of mind, remune-  
“ rative labour, and the acquisition of interesting and  
“ useful information in the school, are in themselves  
“ sanitary influences of no slight importance.”

Finally, the superintendent of Smithfield prison, an officer who had served ten years as deputy-governor and master of the works under the old system, states that the labour of the convicts in the intermediate prisons amounts to three times what it was formerly.

This assertion is corroborated (as Captain Crofton assures us) by a reference to the books of his department, but it proves less in favor of the new system than against the old one ; and we must not forget, when trying to form a just conclusion, that all comparisons between the new and the old systems must always contrast favorably for the one at present adopted.

It follows from the above general principles, that the regulations which guide the management of the intermediate prisons, as to discipline, are, first, the omission of all prison supervision during the time the convicts are allowed freedom of action ; secondly, intercourse is permitted between the public and the prisoners, under such rules as are compatible with their condition as prisoners. Captain Crofton thus expresses himself on this subject : “The more the “public see of the prisoners, either during their penal “state, or during the period of reformatory treat-“ment, the better.”

The deterrent effect and the reformatory influence would also be increased by the publicity of the punishment. This will be admitted by all the advocates of compulsory labour for convicts in the open air, but at the same time if there is not a strict line of demarcation drawn between the labour of the convicts and free labour, there are many facts to prove that an injurious effect will be produced by lessening the deterrent nature of the punishment. The history of

English transportation furnishes the strongest proofs on this subject.

According to the principles above referred to, strangers are permitted to visit intermediate prisons and to inspect the conduct register, and the labour books of the prisoners, one might almost say "the "moral test book of character" of each convict. Strangers are freely permitted to attend at the evening lectures of the institution, the practical results expected from which is to remove the prejudice against employing discharged convicts, and give employers an opportunity of obtaining an exact knowledge of the character of each ; the result of this is, that the good effects accomplished in other countries by patronage societies and associations for the purpose of visiting prisons are obtained in Ireland (where no such associations exist)by the knowledge which the public acquires from these visits to the prison.

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## CHAPTER X.

## LABOUR AND GRATUITIES.

THE convicts in the intermediate prisons are employed in whatever manner happens to be most profitable, and it cannot be said that greater attention is paid to one description of occupation than to another. Agricultural and industrial pursuits, as well as trades, are, therefore, equally attended to. In this respect there is no difference between hard labour in the preceding stages, whether of association, at Spike Island, or separation, and the employment in the intermediate prisons. At Fort Camden the same kind of works are carried on as at Spike Island. At Lusk (fifteen English miles from Dublin); the convicts are employed in agriculture ; and at Smithfield, in various trades. In this stage it is not considered of importance that the labour should be of a penal character, as the necessity for physical restraint no longer exists ; and, consequently, only those prisoners who were found particularly well fitted for hard labour, at Spike Island, are kept at similar works at Fort Camden. Not only is great care taken in the general distribution of employment, but even the most minute details are attended to, in a manner which shows extraordinary attention on the part of the directors ; thus, for example : the convalescent patients in hospital are employed in making nets ; and in the appointment of hospital warder, a knowledge of

this work was deemed a necessary qualification. The daily distribution of time in the intermediate prisons is arranged as follows: nine hours and a quarter are devoted to work, two hours and a quarter to recreation and meals, three hours and three quarters to instruction and prayer, and three quarters of an hour to dressing and cleaning the cells. In this way the entire time from five o'clock in the morning to nine at night is occupied.

The gratuities allowed for labour are determined partly according to a fixed scale for good conduct, amounting to about eight silver groschen (nine pence) a week; and partly according to the quantity of work done by the prisoner. It is evident that, as the gratuities are awarded according to two criteria: good conduct and the amount of work done, conjointly, so these may be considered as one and the same thing, good conduct being only admissible when the convict has exerted himself to the utmost of his ability. In considering the payment for the work done, a real compensation for industry, according to a settled scale of prices for each piece should then certainly be given, and not a mere reward. It is doubtful whether, in any case, rewards for good conduct in the form of gratuities are judicious,\* or whether it would not be more in accordance with the nature of intermediate prisons, to

\* It appears from Captain Crofton's notes and the reports of the Directors that the conduct gratuity is already earned by the convict before his entrance into the intermediate prison. The additional gratuity given in the intermediate prisons is for industry alone. See Captain Crofton's notes, and the reports above referred to.—*Translator.*

measure gratuities to prisoners, altogether by the amount of work done. For invalids, however, gratuities allowed on the grounds of good conduct, but nominally given as payment for work done, can only be considered in the light of mere charity.

The average earning of each convict amounts to about one shilling weekly.\* They are allowed to dispose of one-half of this unconditionally, so that they can purchase any little luxury they please. However, such is the powerful influence of discipline that a bad use has never been made of the permission, and it must be granted, that decided assistance to the success of the system is given by this immediate exercise of self-control, which accustoms the convict to practice temperance. In France the "Bulletin de statisque morale," in which the conduct of the prisoners is registered, does not, certainly, give the same reliable grounds to judge of character, as the account-books, in which, according to the Irish system, the prisoner is obliged to enter how he spends his weekly earnings.†

\* The earnings may by industry be greater, as appears from Captain Crofton's notes, and Fifth Report of Directors, the prisoner may earn, besides conduct gratuity, 1s. 9d. weekly, according to the work performed, making the maximum 2s. 6d. weekly. See Fifth Report, page 32, and Captain Crofton's notes, page 2.—*Translator.*

† Rev. Mr. Shipley states, "Each prisoner is supplied with a small account-book, in which he regularly enters his amount of labour finished, his amount of earnings drawn, his amount of gains saved. The former is left in his own possession, the latter is kept by the authorities. His book is open to inspection, and his accounts are open to inquiry. Much good has arisen from the observation of the way in which the convict spends his little

It may, indeed, be objected that, in consequence of the supervision over him, the convict is guided in laying out his disposable gratuity by cunning and hypocrisy, and that, even if he were so disposed, he would hesitate before he would venture to purchase intoxicating liquors, and he cannot, therefore, be considered as a free agent ;\* his actions being determined by the wishes of his superiors, as he well knows that they have power to discharge him at an earlier or later period of his sentence, as they think right. Yet, although the application of this disposable gratuity, may not be an infallible proof of how he would conduct himself if at perfect liberty, his hypocrisy can certainly never be put to a more severe test than in this denial of the gratification of a sensual enjoyment within his reach. Hypocrisy of temperance is manifestly a different thing from hypocrisy in religion. The exercise of self-control, on account of which some endeavour to excuse hypocrisy in religious matters is, certainly, to be commended when applied to restrain the sensual appetites, because it promotes a certain energy of will, which lays the foundation of good habits.

Most of the convicts in the intermediate prisons do not spend this free portion of their gratuity at all, but lay it by for their contemplated emigration ; others savings, and though compulsion is not used, sound advice is often taken. See *Purgatory of Prisons*, page 67.—*Translator*.

\* No intoxicating liquors of any kind are permitted in the Irish convict prisons. See Rev. Mr. Shipley, page 68, and also Captain Crofton's notes, page 3.—*Translator*.

procure with it working tools ; and again, others purchase articles of clothing. The greatest luxury indulged in, and that only by a few, consists in the purchase of tobacco, or in improving their diet ; as the dietary in the intermediate prisons, is exactly similar to that in the other convict depôts, and is limited to what is absolutely necessary. In the English prison of Portland, on the contrary, a much higher class of rations is given. [There is a most remarkable difference between the diet provided in the Irish intermediate prisons, and that in the English institution at Fulham. It may be said, without exaggeration, of the latter establishment, that the food given to the convicts there is better than that used by most of the chief prison officers in Germany, at least if we may judge by the dietary of that establishment. See Captain Crofton Notes, page 23. According to the Rev. Mr. Shipley's work, page 31, the dietary at Smithfield prison, is as follows :—Breakfast, half a pint of tea and half-a-pound of bread. Dinner on Sundays, Tuesdays, and Thursdays, three quarters of a pound of meat, one pint of soup, half a pound of bread, and two pounds of potatoes. Mondays, Wednesdays, Fridays, and Saturdays, three pounds and a half of potatoes and one pint of milk. Supper one pint of coffee and one pound of bread.]

The free disposal of portions of gratuities by convicts is allowed, to a certain extent, in the Continental prisons ; however, Colonel Jebb objects to this permission, in his report on the Irish prison management, as he states that it would lead to quarrelling,

pilfering, gambling, &c., and that it would cause more mischief than any possible good that might be expected from it.\* Although abuses are possible, a strong disciplinary supervision will easily detect them in an establishment where the number of convicts is limited, as is the case in an intermediate prison ; and, even though a free disposal of the earnings is permitted, the prison authorities need not themselves keep a restaurant to tempt the prisoners to spend their earnings.†

We have now to consider the final application of the gratuities, a subject of the utmost importance to the future career of the convict. Some lay up their earnings, for the purpose of giving security, when they seek for employment on discharge. This method of applying gratuities is occasionally used, and seems to contain a principle the working out of which, by the prison authorities, might become of immense importance. By discharged convicts being able to give security, not only employment on discharge would be facilitated, but the wages would be of a better description, as many situations might, in this way, come within their reach, where they are now rejected on account of the distrust of employers.

It is a subject which merits the deepest consideration

\* In practice this has not been found to be the case in the intermediate prisons. See Captain Crofton's notes.—*Translator.*

† In many continental prisons in France and elsewhere a restaurant is kept by the prison administration, where prisoners may spend their earnings. Even in some prisons wine and spirits are permitted, but in a very limited quantity.—*Translator.*

whether the custom of convicts giving security out of their savings might not be made more general for the two-fold purpose both of inducing employers to give prisoners work, and of permanently strengthening the resolution of the convict to adopt a respectable course of life. The accomplishment of the ends of penal repression would, by this, be better effected than in any other way, as through it the gratuities would be handed over directly to trustworthy persons, for the purpose of procuring employment for the convicts on discharge, and would be left as a security against embezzlement. If such were the case, it would be the interest of the prison administration itself, not to depress the gratuities too low, but to establish a scale which, though indeed considerably below the value of free labour, would still admit of savings, during a long course of imprisonment, sufficient for the purpose of giving security. This practice of giving security would be, above all things, beneficial for those tradesmen discharged from prison, to whom materials must be entrusted in the course of business, and, in fact, it would prove to be a pledge *de non amplius turbando.*

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## CHAPTER XI.

## INSTRUCTION IN INTERMEDIATE PRISONS.

IT is of the greatest importance that the system of instruction given in the intermediate prisons should chiefly have for its aim objects of a practical nature. The instruction given in Smithfield prison by Mr. Organ is distinguished in this respect. This officer was appointed on the recommendation of the National Board of Education in Ireland ; and few men have, during so short a period of office, obtained more universal approbation. His important services have been noticed by every person who has written on the subject of the Irish prison system, and their opinions have been confirmed by that of His Excellency Lord Carlisle, Lord Lieutenant of Ireland. Enthusiastic as to the results of his labours, and careful to individualize each prisoner, he possesses qualities which do more to promote the objects of his calling than any mere abstract feeling of duty could effect ; indefatigable perseverance and firm faith in the final success of his teaching are the qualifications which we must bear in mind when judging of his services with a view to discover whether the praises universally bestowed on him be not exaggerated.

Mr. Organ himself defines his avocations as follows:—“ A good schoolmaster is a man who ought to “ know a great deal more than he teaches, in order to

"teach with intelligence and taste ; who must live in  
"an humble sphere, and yet have an elevated mind to  
"enable him to preserve that dignity of sentiments,  
"and even of manners, without which he will never  
"obtain the respect and confidence of families. He  
"must possess a rare mixture of mildness and firm-  
"ness ; for he is the inferior of many, and yet must  
"be the abject servant of none ; aware of his rights,  
"but thinking much more of his duty ; setting an  
"example to all ; the adviser of every one, especially  
"never trying to renounce his profession ; satisfied  
"with his vocation from a strong conviction that he  
"is doing good." See his lectures.]

At once teacher and adviser, he keeps up a correspondence with his pupils after their discharge, extracts from which are generally appended to his official reports. The duties which he fulfils so energetically would alone be sufficient to justify us in calling the management of Smithfield prison "Intermediate ;" at the same time it must not be thought that our opinion of this institution, or of its permanent efficiency, can be considered to depend on the transcendent, but, at the same time, rare abilities of a particularly gifted individual, who could, by grappling with the deficiencies of a system, free it temporarily from betraying any real inefficiency it might possess.

Mr. Organ's chief duties are, to instruct the men while in Smithfield, provide employment for them after discharge, and pay regular visits to such as are on licence in the County Dublin. Thus by himself

he appears to perform the entire duties of a patronage society.

[The establishment of loan funds for discharged convicts and ticket-of-licence men, who go security for each other, seems to be of great importance, and well worthy of imitation. This system was called into existence by Mr. Organ, and at present enjoys general approbation. (See Third Annual Report, p. 84). Mr. Organ also tries to induce the convicts before their discharge from Smithfield to take a pledge, in the presence of a clergyman, against the use of intoxicating liquors. According to his statement in the Third Report, two-thirds of his pupils have done so].

The subjects selected for the instruction of the convicts, in the intermediate prisons, as well as the methods used for conveying it, are intended to encourage and win over the attention of men whose youth had been unprofitably spent ; mere school-teaching, limited to elementary subjects, would not correspond with the principle on which these institutes are founded.

The instruction is given by lectures delivered every evening, at Smithfield. Saturday evening is devoted to competitive examinations amongst the inmates, and thus an opportunity is afforded of judging whether the matter taught has been understood, and a spirit of emulation is excited in the pupils ; at the same time, elementary instruction is by no means neglected. During lecture the prisoners who can write are encouraged to take notes to assist their memory for

the purpose of further pursuing the study of such subjects as appear to them particularly deserving of notice. These notes are found very useful, when at any time misconceptions or differences of opinion arise in the weekly examinations.

It has been much debated amongst English authorities, on the subject of education, whether lectures are the best method of teaching in the early stages of instruction. Two Inspectors of English schools, the Rev. Messrs. Cooke and Moseley, have reported in favour of the system, and when we consider that, in persons of mature age, the mind has already acquired a certain independence of thought, and is no longer sufficiently pliable to be formed by mere school-teaching ; and, also, when we recollect that the instruction in the intermediate prisons is given in the evening, after the long labours of the day, we can well understand why so much importance is attached to this method of education by lectures. In addition to these reasons, we must bear in mind, that much useful information and many elements of improvement out of the regular course of systematic school-teaching can be imparted to the lower classes in lectures, which help in some measure to repair the neglect of early education. Geography is a subject more particularly studied in these lectures, on account of the many social questions involved in it, and by their means it can be adapted to the most ordinary intellect. Lectures have also a peculiar attraction for persons who, deficient in elementary education, as the majority of convicts are found to be,

have, nevertheless, the strong tendency of the English character to canvass subjects of social interest ; such persons will, necessarily, prefer instruction, communicated by means of lectures, to the difficult and laborious task of acquiring a knowledge from books. [See on this subject "A Plan for the Education of the Working Classes through the Medium of Evening Schools and Educational Mechanics' Institutes," Dublin, 1855].

The subjects taught in the intermediate prisons tend still more than the form of instruction to rivet the attention of the convicts. The leading principle, always kept in view, is--that special care should be taken to avoid every subject which might lead to religious controversy. The antagonistic position of religious parties in Ireland renders this imperative, as even in the official reports of the prison officers we can occasionally see a glimmering of the jealousy which exists among the clergy of the different creeds. In consequence of the care taken to carry out this principle, which seeks to avoid all debatable subjects connected with religion, history appears to form an insignificant portion of the instruction given. [Mr. Organ does not undervalue the importance of religious instruction, as appears very plainly from his reports. In the fourth report, he says, page 130 :—"That religion should form the basis of reformation cannot be questioned ; take it away and the formation of a new heart is Utopian. A criminal devoid of it must necessarily be a bad subject for moral and industrial training. The diffi-

culties attending the moral reformation of such a man are best known to his chaplain, who is most competent to deal with them.”]

Practical morality and geography form the principal subjects of all the lectures which are given at Smithfield. This is evident by reference to the course given at Smithfield in 1856, which are added as an appendix to the fourth official report. [See Appendix, list of Lectures].

The necessity for a moral course of life, independent of its religious foundation, is brought home to the mind of the prisoner by an appeal to the understanding. The object of the lecturer is to explain the advantages of the observance of the moral precepts in a temporal point of view, illustrating his arguments by examples, taken from real life, of the evil consequences which will result from a breach of them ; to shew the harmony which exists between the dictates of conscience and the results of our actions, in a worldly sense ; and, to point out that a virtuous and religious life is also the most profitable. Other subjects dwelt on are, the claims which the intercourse of social life have on each individual, the principles of trade and commerce, the relations of master and servant ; in short, all the duties of society in every-day life. It is evident that the discussion of these questions gives favorable opportunities for animadverting on certain social evils. Such appeals to the understanding are found more effectually to impress on the mind the necessity of temperance than any attempt to influence merely

the moral feelings, in cases where, as in England, the Sabbath is observed with the utmost strictness, yet is habitually profaned by drunkenness. Even high ecclesiastical authorities seem to acknowledge the necessity of strengthening the effects of religious teaching by these means. (See *Clerical Journal*, of 23rd November, 1857).

It is very remarkable how much attention is paid by the prisoners to these moral discussions, and they constantly seek for points of resemblance within their own experience. This method, which brings plainly home to each man his duties, has particular attractions for them; they feel, in their own minds that they can judge independently for themselves and from their own experience, and they delight in finding a practical illustration of their ideas and the power of deducing a moral from their own views, which they feel raises them above the position of mere practical learners.

We cannot deny but that such moral lectures may easily degenerate and become superficial. The advantages or disadvantages, the good or the defects of the system of instruction cannot be determined by comparison with general views. We may also observe, when considering the subject of the Irish intermediate prisons, that abundant communication exists between the teachers and the convicts, whose numbers being more limited than in an ordinary convict depot, each convict can be taught to consider, discuss, and form an adequate judgment from his own per-

sonal experience of his antecedents, the causes of his crimes, the hopes of his future life, and every feeling of his soul ; and for this reason the utility of these lectures should not be undervalued. In them is repeatedly brought into operation that attempt at an interior change of the soul which was begun in the separate cell.

Another object of the instruction given in intermediate prisons is in reference to the future life of the prisoner. As it is considered that the voluntary emigration to a colony is a most desirable termination of his imprisonment, to save him from a hard struggle at home for a livelihood, it must be expected that the instruction will be such as may assist in this object. For the same reason geography forms a large portion of the matter of instruction, more especially that which relates to the English colonies. The situation, properties, productions of Canada, Australia, and the Cape of Good Hope—the field which each presents to the emigrant, his prospects of success—all these are portrayed in the course of the lectures. The experience of many years, for which emigrants of the lower classes have otherwise usually to pay dear, is thus at once attained through these lectures, and the future emigrant becomes thereby qualified to decide on the place which should be chosen for emigration, not through blind chance, or on the recommendation of interested persons, but on positive grounds well considered in different points of view. [The instruction is applied specially to induce convicts to emigrate. See

Fourth Report, page 15, which says :—“ His special “ education informs him that although in his own “ country he may be too weak to resist old associates “ and their temptations, there are other fields in which “ employment is abundant, where his unhappy antece- “ dents will not appear against him, and where active “ industry and steady perseverance in well-doing will “ meet with their reward.”]

The importance of instruction directed to such practical objects cannot be over-estimated. In it is embodied all the education of the mind requisite to enable the individual to succeed. In Mountjoy it was sought, as has already been observed, to effect by means of instruction the eradication of those social prejudices among the lower classes in Ireland which must be regarded as a principal source of the frequent misconceptions whence agrarian crimes derive their origin. After the mind has been cleared of these prejudices, it is endeavoured in the intermediate prisons to facilitate an insight into the practical relations of social life, by means of which the prisoner is enabled to decide how he can apply his labour to the best advantage. This can be best understood by reference to the published lectures, and to the list of those delivered at Smithfield, in 1857. Colonel Jebb likewise has added the weight of his authority to show the necessity of practical instruction given to prisoners previous to discharge, and it can now scarcely be doubted that it is of more consequence for adults than elementary knowledge.

Mr. Organ, in the preface to his printed lectures, gives us his experience, as a teacher, on this subject, as follows :—

“ There is no fallacy more common than one which “ leads the great mass of mankind to assume that the “ vast majority of criminals are different from other “ human beings. During the twelve years before the “ date of my appointment as Lecturer at the Smith- “ field Reformatory, I had been constantly engaged “ as a teacher of adults, and during my experience of “ Smithfield, I have not been able to discover that the “ ordinary class of well-educated convicts are in any “ respect—in mind, morals, passions or feelings—ine- “ ferior to the generality of those of their class in life “ whom it was my duty to instruct before I became “ connected with the Convict Service.

“ He who would become a lecturer to convicts (or “ indeed to persons of any class) must bear two par- “ ticulars in mind :—first, that being men, they must “ never for one moment perceive, that when once “ received into the highest class of good-conduct men, “ they are ever suspected of falsehood or dishonesty.

“ I would beg every person, teacher and lecturer, to “ remember that he is not placed in his position for the “ purpose of teaching men to spell, and calculate, and “ write, and answer ; he has a higher duty to perform, “ and which is, that whilst imparting school-teaching “ to those under his charge, he should then make him- “ self thoroughly acquainted with every phase of “ their minds, and with every shade of their disposi-

"tions. He should learn their past lives, their hopes for the future, their joys and sorrows, their desires and their aspirations, and aid them in carrying out every reasonable hope of advancement and success which shines before every prisoner who longs hopefully and with a reformed mind, for the throwing open of the prison portals.

"Hell, we are told, is paved with good intentions ; but there is a grand and a brave moral in the late Archdeacon Hare's gloss upon this saying, 'Pluck up the stones, ye sluggards, and break the devil's head with them.'

The best evidence of the success of this method of instruction is the favorable results which have followed, and the fact that prisoners after discharge still wish to frequent the lectures. Even those who have enlisted in the army sometimes attend as listeners in the lecture-room of the prison, which it might be supposed would have more a deterrent than an inviting aspect for them.

In all cases the character of the teaching in Smithfield has as little of mere routine as possible ; on the contrary, every means are employed to strengthen the impression produced by the lectures. The prison warders, who are likewise tradesmen, assist at them, and during working hours and leisure moments the subjects are discussed in the work-rooms, and thus not only improper conversation is avoided, but also the matter of the lectures is unconsciously fixed stronger on the memory.

## PART IV.

### RETURN TO LIBERTY.

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### CHAPTER XII.

#### CONDITIONAL DISCHARGE ON LICENCE.

WE have already, in the third chapter, referred to the subject of tickets-of-licence and conditional liberty in its relations to the other stages of punishment, as well as the reasons which justify discharge on licence. This is the last and closing stage of the Irish prison system.

We do not contend that this stage is absolutely necessary, because it has already been shown that intermediate prisons may produce most salutary results without being followed by conditional discharge on licence, and also that the latter may be permitted to exist without intermediate prisons.

Previous to the passing of the Irish Convict Prison Act, the issuing of tickets-of-licence had not been sanctioned for Ireland, either in consequence of the defective state of the prison administration in that country, or because there existed so strong a prejudice in the public mind against ticket-of-leave men. As compared with intermediate prisons, Captain Crofton appears to attach little importance to dis-

charge on licence. In his evidence before the Parliamentary Commissioners, in 1856, he states:—

“However convenient it may be for prison authorities to hold out, as an inducement to good prison conduct, that the prisoners should lose twenty-five per cent. of their punishment, I cannot think that such a course will tend to genuine reformation. I should be unbelieving in the reformation of any man who would require so strong a stimulus as to be let off one-fourth of his punishment to induce his reformation ; I should infinitely prefer to see that man, with a well-modified system of imprisonment, at the termination of his sentence, in a situation where he can be tested before he goes out. I should hope that that would be a sufficient stimulus for any good prison conduct ; if it were not, I should be very doubtful of the reformation of the man. I believe that the ticket-of-leave or licence, as it is called, in theory is good, but it appears to me to be practically stultified, because it requires such a delicacy in the supervision, the only thing that makes it valuable.”

At that time Captain Crofton appears to have been under the impression that by discharge on licence so powerful a restraining influence would be exercised over the actions of the convict as to render his conduct under such circumstances no sufficient evidence of real and permanent reformation, and that police surveillance, as a necessary consequence of conditional liberty, could only with difficulty be carried out in Ireland.

[Captain Crofton then contemplated transportation to Australia, instead of conditional discharge, as the true moral lever to promote the objects of reformation, and referred to the fact that, in 1856, men who had been transported to Australia as convicts, were appointed police inspectors, at a salary of 5s. a day. The same objection which he makes to discharge on licence, "that it is too strong a stimulus to have a lasting effect," might also be brought against this proposition. See Report on Transportation, 1856, page 149.]

It is apparent from the conduct of the prisoners sentenced to penal servitude under the act of 1853, that the favorable results experienced in the Irish intermediate prisons are in no way dependent on the issuing of tickets-of-licence. Those prisoners, although not eligible for conditional discharge, have been quite as well conducted as others who, having been sentenced to transportation, were so eligible. From this it is quite evident that the inducement to reformation held out to the prisoner by discharge on licence does not influence him so very much more than the general discipline of the intermediate prisons. For the same reason the fears entertained by Captain Crofton that the improvement in the conduct of the criminal would be too sudden to be permanent, were proved to be groundless. The opinion also that police supervision could not be carried out in practice, is equally shown to be unfounded by the circumstance that it is the very system which

is at present in full and successful operation in Ireland.

If we admit that "conditional," or, as it is better expressed, revocable liberty, is right in theory, and sufficient for the requirements of criminal jurisprudence, we are compelled to acknowledge that on the one hand the good effects produced by intermediate prisons are thereby increased ; and on the other, the value of conditional liberty is much enhanced by the preceding intermediate stage.

Discharge on licence immediately after the penal stages of cellular imprisonment, or of compulsory labour in association, must rest on a very insecure basis, as the prisoner's character is not tested, and there is much less security that he is reformed than when he has shown the power of resisting temptations in the intermediate prisons. The prison character which he has obtained during the period of penal restraint is of a mere negative kind, and may only prove that he has sufficient cunning to take care of his own interest, by observing the discipline of the prison. Intermediate prisons are, therefore, considered by a great many writers, and particularly by Capt. Crofton, as the proper test of the fitness of the prisoner for conditional discharge on licence. Perhaps their value is over-estimated, because it can be shown from psychological facts that, not unfrequently, evil-disposed persons, possessing strong energy of character, are able to withstand the trifling temptations which they are liable to meet in an intermediate prison ;

while, on the contrary, the weak-minded and indolent at once yield to difficulties, and confess that they are under less restraint at Spike Island.

By conditional discharge, after passing through intermediate prisons, the gradual transition to liberty is most perfectly carried out. A prisoner so discharged is precisely in the same position as he was in the intermediate prison : he has the same opportunity for bad conduct, or for abuse of the licence granted to him; the only difference is, that he has a wider field for liberty, and, consequently, the probability of discovery is considerably diminished ; but the same motives for good conduct still continue, and the same prospect of advantages to be derived from it exist, during the period of his conditional liberty. By this means a two-fold result is obtained : the good conduct of the prisoner on licence proves to the public the reformatory influence of the preceding stages, and the prisoner himself, having constantly before his eyes the necessity of perseverance in the moral conditions, on which he obtained his discharge, gradually acquires the habit of a regular life, and the power of resisting the impulses which may momentarily arise. [In England great stress appears to be laid on training ; all works, on the subject of prison reform, put forward continually, as inseparable, the two-fold requisites for prisoners—“education” and “training.”]

All the objections which have been brought forward with so much success against the theory that punishment should be simply deterrent, can with equal force

be made use of to prove the good results derivable from discharge on licence, more especially the argument that offenders are emboldened by the chance of escape, by the well-known inefficiency of the penal code to convict, even after the offence has been committed, and the certainty of impunity as long as the criminal act has not been absolutely perpetrated. [See on this subject Lord Brougham's clever Essay "on the Inefficiency of a simply Penal Legislation," published in the Report of the first Provincial Meeting of the National Reformatory Union, held at Bristol, August 20th, 1856.] The convict discharged on licence, knowing well that he may be recommitted to complete the period of his sentence in prison, should he give reason for even an unfavourable suspicion against him, without proof being required of his relapse, is careful to avoid any misconduct, feeling that it would insure his reimprisonment.

With regard to the issuing of tickets-of-licence, it is evident that as the particular stages of punishment after which they are given in Ireland and England are different, so the conditions on which they are granted in both countries must also be different. In Ireland only such prisoners as have been tested during their detention in the intermediate prisons, and who have for several months escaped from all manner of disciplinary punishments, can acquire a claim to discharge. In England all who pass through the second stage of punishment with good conduct receive tickets-of-licence. It has, besides, been hitherto

required in Ireland that the prisoner should, previous to discharge, have a certain prospect of employment.

Colonel Jebb has lately expressed his opinion against tickets-of-licence being dependent on the prospect of employment, because in that case the discharge of the prisoner will depend on the benevolence of a third person, and it is doubtful whether employers will keep their word and wait for the day on which the prisoner is discharged. It cannot be denied that there is some foundation for this objection, if we consider conditional discharge, not as an indulgence or as a disciplinary means of training, similar to the other regulations connected with the discipline of the prison, but as a right which the prisoner may claim, that the duration of his imprisonment should be absolutely dependent on his conduct. That this was evidently not the intention of the English legislature is proved by the fact that the giving of tickets-of-licence is reserved for the crown, as is likewise absolute pardon, the value of which is more extended than an otherwise partial release on licence. A right to a licence by the convict, or a positive obligation on the prison authorities to grant it, cannot be admitted, and on that account these objections have no weight. [Even Colonel Jebb appeared to be of a different opinion, when examined in 1856 before the Committee of the House of Lords, which met to reconsider the act of 1853. His answer to the question 1,274 runs thus :—“The course pursued at different prisons

is this : about a month before the period when the man becomes eligible to be brought forward for release, inquiry is made of him whether he knows anyone who will employ him. He generally knows somebody who he hopes will employ him, and a letter is addressed to the person, who, in the majority of instances, returns a favourable answer. No notice is taken of that answer unless it is certified that the person is capable of fulfilling the promise which he holds out."] So far from agreeing in this objection of Colonel Jebb, it seems to us that it is more just to defer the liberation of a convict rather than to endanger the whole system of prison discipline, by leaving the discharge of prisoners to chance.

As in some cases friends and former accomplices have offered in writing to give employment, it is absolutely necessary to examine closely the character of those to whom the convict refers, and if the result be not satisfactory, it becomes evidently the duty of the authorities to refuse the licence.

It has, besides, been already remarked that the application of employers for convict labour, in Ireland, far surpasses the supply, so that there does not appear to be any danger that the prisoners would be injured by the delay.

The many articles which have, from time to time, appeared in the English newspapers complaining of and protesting against discharge on tickets-of-licence, and likewise the testimony of some of the witnesses examined before the Parliamentary Committee of

1856, on the same subject, are now contradicted by experience ; and, even then, they were acknowledged by many to be a misconception. That committee has specially pointed out in its report that several of the police officers who were examined before it, confounded convicts discharged absolutely, having completed the full term of their sentence, with others who were on licence.

About one-half of all the convicts discharged from the Irish Convict Prisons, up to the end of September, 1857—that is, 559 out of 1,067, were discharged on licence, and of these eighty-one were afterwards unconditionally pardoned, in consequence of their good conduct while on licence. [The wages given to discharged convicts, in the city of Dublin and the neighbouring country districts, average, according to the kind of work and the ability of the men, from seven shillings to twenty-six shillings per week. See Fourth Report, page 29.]

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## CHAPTER XIII.

## POLICE SURVEILLANCE OVER DISCHARGED PRISONERS.

DURING the period of conditional liberty a careful supervision over those prisoners who are on licence, is exercised by the police ; but under the direction of the prison authorities. This supervision has been in operation since 1st of January, 1857. Every convict, conditionally discharged, is obliged to report himself monthly at the nearest constabulary station. The regulations approved of by the Lord Lieutenant, with regard to men on licence, are as follows :—

1st—When an offer of employment for a prisoner is accepted, a notification thereof will be made by the Directors of Government Prisons to the Inspector-General of Constabulary, by whom it will be transmitted to the constabulary of the locality in which the employment is to be given, with all necessary particulars, for the purpose of being entered in a register, at the constabulary station.

2nd—Each convict so to be employed, will report himself at the appointed constabulary station (the name of which will be given to him) on his arrival in the district, and, subsequently, on the first of each month.

3rd—A special report is to be made to head-quarters, by the constabulary, whenever they shall observe a

convict, on licence, guilty of misconduct, or leading an irregular life.

4th—A convict is not to change his locality without notifying the circumstance at the constabulary station, in order that his registration may be transferred to the place to which he is about to proceed. On his arrival he must report himself to the nearest constabulary station (of the name of which he is to be informed) and such transfer is to be reported to head quarters for the information of the Directors of Government Prisons.

5th—An infringement of these rules, by the convict, will cause it to be assumed that he is leading an idle, irregular life, and, therefore, entail the revocation of his licence.

There is no doubt that the custom of discharge on tickets-of-licence can only be valuable where such an effective supervision is established, as will enable the conduct of those so discharged to be at all times under observation. By the system pursued in Ireland, the employers are made acquainted with the antecedents of the discharged convict, and will, therefore, from the natural distrust they must feel, be induced to watch his conduct more narrowly, and be more disposed to be severe, should the man misconduct himself, feeling that they were deceived in giving employment to such a person. The police authorities only exercise a supervision and a power of control, but have no direct influence over the employment of the individual, or the degree of freedom which

is allowed him. This is a most important difference between the Irish and the French systems of police surveillance. In the French system, after the prisoner has undergone the entire period of his sentence the limitations to personal liberty are very apparent, and tend to cut off the sources of employment, by making known his antecedents. In Ireland, the police supervision enables the prison Directors, at any moment, to ascertain the conduct of each person released on licence. They can, through the police, prevent too many from congregating in certain districts ; but, above all things, they endeavour to ascertain their mistake, should any convict on licence misconduct himself, and instead of depending on accident for such information, they obtain it with certainty through the police authorities. The only difficulty is, that the convict at present is able to withdraw from police inspection by crossing over to England or Scotland, where he will be under no control. This arises from a want of unity in the administration, which must be considered as an evil.

The police, the employer, and the directors are in constant communication with each other ; their objects are the same, and tend to the same end. There is, therefore, good reason to assume, that the conditions of discharge will, most probably, be adhered to, and that the breach of the regulation, under which the prisoner was discharged, cannot in most cases pass undiscovered.

Experience shows the success with which this system

has been worked--as out of 559 licences, the entire number granted up to the end of September, 1857, only seventeen, that is three per cent., have been revoked. [Out of these, two were for not reporting themselves to the police, three for keeping bad company, one for drunkenness, one for causing a disturbance in the street, and one for travelling by railway without a ticket.] Although we may suppose that some convicts on licence succeed in evading all surveillance, others, perhaps, emigrate unnoticed, and not a few go to England, as we may assume from the much-talked of roving character of the Irish labourer, produced by the constant change of employment, which is more irregular in Ireland than in any other country ; notwithstanding all this, it is still evident that the results are most decidedly satisfactory.

This surveillance of the police over men on licence is different in its object from that which is exercised over prisoners discharged unconditionally. The latter is merely of a preventive nature, and has for its object, to make known to the police such persons as are considered incorrigible by the prison authorities; but it is obvious that it can in no way control the liberty of convicts absolutely discharged. Although there is an undoubted right to watch over and use precaution against individuals particularly dangerous to the community, it may be doubted whether this course of proceeding answers the end in view. May we not, with good reason, fear that the discharged convict, finding himself watched, while still

following a course of crime, will act with increased caution, in order to escape detection. [Captain Crofton expressed himself in the following manner, on this subject, before the Parliamentary Committee of 1856 (see p. 157) :—“It is notified to “the head of the constabulary, that such a man has “gone there, with the professed intention of carrying “on his career of crime. In the case of such a man “I have no compunction in marking him, but I should “have the greatest, in the case of a man who I “believed was a reformed character”].

Besides, is it just to give so important an influence over the entire future lot of a discharged convict to the mere opinion of a prison officer, no matter how sharp-sighted he may be? It is, at least, as possible that some who have obstinately resisted all discipline in prison may, nevertheless, after discharge refrain from the commission of further crimes, as that the convict who had been most submissive and obedient to the authorities, in prison, should relapse on receiving his liberty.

Colonel Jebb has lately, in his Report for 1857, expressed his decided opinion against the system of police surveillance. According to his view, it would be impossible to carry out similar regulations in England, because the fate of the discharged convict depends exclusively on the fact of his previous conviction being unknown to his future employer. [“On this account the English police have particular “instructions not to make known the man’s previous

“conviction to the employer.” See Report on Transportation, page 2645.] Colonel Jebb seems further to suppose that public opinion, with regard to police surveillance, is different in Ireland from the feeling, on the subject, in England. The Irish prison Directors, on the contrary, have, in a strong and decided manner, reported in its favor; and police surveillance has been repeatedly designated, by Captain Crofton, as an indispensable arrangement. [The Transportation Committee of 1856 acknowledged the necessity for special police supervision, and resolved—“That every convict, on his release with “a ticket-of-leave ought to be reported to the police of the town or district to which he is sent.”]

It is so natural that police surveillance should be differently viewed, in different countries, that the fact of its being the case can scarcely be doubted. This difference in public opinion is just in proportion to the activity and efficiency of the police, and the confidence which is placed in them by the public. It is, therefore, possible that a system which is found to work well in Ireland, might prove useless, or even injurious, elsewhere. The principal point to be considered, with regard to discharged convicts, is, how the opposition which they must necessarily meet with, in returning to a proper position in social life, can best be removed. Police supervision may possibly conduce to this end; but it may also, under different circumstances, render its attainment more difficult.

The police arrangements are, generally speaking, superfluous, wherever the influence of patronage societies is thoroughly established. Such societies are in a position to do much for the accomplishment of the objects they have in view, from the particular zeal with which they work, and carry out their aim ; and they may, without hesitation, be compared to a police surveillance, whenever it is only necessary to exercise a controlling influence on the conduct of the convicts. But, so long as patronage societies are not general, no reason can be brought forward to show that surveillance of the police over discharged convicts should be withdrawn, or that their assistance should be regarded with distrust. The regulation that convicts should report themselves monthly, is so carried out in large towns, that injury to the character of the persons concerned can scarcely result from it. It might, perhaps, be entirely dispensed with, in small places, where supervision is not difficult. Under all circumstances, it is the duty of the state to maintain good order and to vindicate the laws. The discovery of the misconduct of convicts released conditionally, on which the withdrawal of their tickets-of-licence depends, should not therefore be left to mere chance, or to private individuals ; but it ought to proceed from effective state supervision over such persons.

## PART V.

### DEVIATIONS FROM THE ORDINARY METHODS OF TREATING PRISONERS.

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#### CHAPTER XIV.

##### INVALID PRISONERS AND JUVENILE OFFENDERS.

THE system which we have hitherto described, while it has for its principal object the reformation of the prisoner by the improvement of his mind, keeps also in view the capability of the individual to endure the particular disciplinary punishment which he must undergo. It is not every convict who is fit to endure cellular imprisonment. Some are so weak-minded that they are unable to go through all the penal stages up to their discharge, and certain classes could not possibly be employed at out-door labour.

Apart from the merely exceptional cases of individuals, invalids and women require a different kind of treatment from the other classes. The former are physically incapable of undergoing the full severity of penal labour, and it is therefore desirable, for obvious reasons, that they should be separated from healthy convicts. The latter, in most cases at least, owing to

the weakness of their sex, as well as for the sake of morality, cannot be subjected to penal labour, which either requires too much physical exertion, or, as is the case in out-door labour, exposes them to the inquisitive gaze of passers-by, a circumstance which should be specially avoided in the treatment of female convicts. And, finally, particular rules and special management are required for the treatment of juvenile offenders.

Philipstown Prison is intended for such male prisoners as are either altogether physically incapable of work, or who, having completed the term of separate imprisonment, are found unfitted for the severe labour of Spike Island, and, since 1857, all invalids have been removed from the latter prison to Philipstown.

Up to that time it had been found impossible to bring a perfect system of prison treatment into operation in consequence of the want of similarity in the conditions of the prisoners. To remedy those deficiencies, Philipstown Prison is now composed of different buildings, intended for various and dissimilar purposes. These buildings are so arranged that they contain large separate cells, a number of small sleeping cells, and associated wards where the prisoners work. The great evil of associated imprisonment is very apparent here, at least if we may judge from the Fourth Report of the Directors for 1857, which not only mentions numerous offences against prison discipline, but also that it was found impossible to administer corporal punishment even in

cases where it was most urgently required.\* Two assaults by prisoners, one resulting in death, and the other in serious injury to the person, were severely punished. [The return for 1855, with a daily average of 344 prisoners in custody, gives 775 disciplinary punishments as awarded during that year ; and the return for 1856 gives 305 punishments for the year in a population of 379. See Rev. Mr. Shipley, page 48.]

Tailoring, shoemaking, and weaving, principally for the supply of the other Irish convict depôts, are the trades at which the greater number of the convicts at Philipstown are employed, but some even in this prison are engaged in out-door labour working as carpenters and masons for the requirements of the establishment.

On the whole it appears that improvement is urgently required at Philipstown, as, on the one hand, greater similarity in the employment, and on the other, a more general application of cellular imprisonment, should be introduced.†

It appears to me that light agricultural labour

\*As the invalids, the weak-minded, and the very worst convicts, physically and mentally deficient, are confined in this dépôt, offences must necessarily be more frequent than in other prisons ; nevertheless, the Directors in their Fifth Report state, that during the year 1858, out of the 591 convicts confined here, 389 were not punished, and of the remainder, 137 but once or twice misconducted themselves, and these in general not seriously. See Report, page 77, and elsewhere.—*Translator.*

† As the author appears not to have seen the Report of the Directors for 1858, he could not have been aware that all but certain invalids sleep in separate cells at Philipstown.—*Translator.*

would be the most simple and the most natural for those who, on account of their state of health, could not be subjected to separate imprisonment. In England there is an institution at Dartmoor, conducted according to these views, and the Irish Directors themselves plainly acknowledge the necessity of forming Philipstown Dépôt according to this model, but obstacles of a local nature, more particularly the want of sufficient means and the high price of land in the neighbourhood of the prison, have prevented the design from being carried out. [See Report on Transportation for 1856, question 1654.] A movable prison has been raised, as a preliminary step towards remedying the present defects, and thus it is proposed to make an opening for the introduction of agricultural labour.

The separate and peculiar management of juvenile offenders has been undertaken in a special division of Mountjoy prison ; but up to this time it has not been possible to carry out the system perfectly. An establishment for the purpose of employing juvenile offenders at agricultural labour is in course of formation on the Commons of Lusk. By means of this a further step will be made in the development of the Irish prison system.

The pressing necessity for the perfect reformation of juvenile offenders by a suitable training has occasioned the passing of the act 21 & 22 Vic., ch. 103, 2nd Aug., 1858, which, like the act passed in England for the same purpose, contains regulations for the

establishment of reformatory schools. [“An Act to promote and regulate Reformatory Schools for Juvenile offenders in Ireland.”] The short time which has elapsed since this act has come into operation does not permit us to judge of its effects. The different clauses, however, point out the course which it is intended should be pursued. The principles by which the act is regulated may therefore be thus briefly given :—

1st—All reformatory schools must be duly and publicly certified, for the purpose, by the Chief Secretary of the Lord Lieutenant for Ireland.

2nd—Reformatory schools are to be visited and inspected by any one of the inspectors-general of prisons, or a special inspector, appointed by the Lord Lieutenant for the purpose, who shall examine into the condition and regulations of such school. Annual reports of such inspector shall be laid before both houses of Parliament.

3rd—Juvenile offenders convicted before a judge, or magistrate, may be sent to a reformatory school for a period of not less than one, nor exceeding five years, provided a previous term of imprisonment of at least fourteen days shall be included in the sentence, and provided also that the juvenile offender who shall be sent to a reformatory school, after having undergone his punishment, shall not exceed the age of sixteen years.

4th—Reformatory schools must belong to different creeds, and a juvenile can only be sent to an institu-

tion which is under the exclusive management of persons of the same religious persuasion as that professed by the parents or guardians, &c., &c., of such juvenile offender.

5th—Grand juries, or the council of any borough, are empowered to vote money for the maintenance of juvenile offenders, and may enter into an agreement with the managers of a reformatory school for the reception and keeping of such as belong to their localities.

6th—The parents are compelled to pay a fixed sum, not exceeding five shillings (one thaler twenty silver groschen) weekly, in aid of the maintenance of such juvenile, and in case of the inability of the parents to pay, the reformatory schools are directly and entirely supported by the state.

7th—The cost of conveyance to the reformatory schools of such juvenile offender as shall be sentenced under the act, shall be charged on the county from which he has been first removed.

8th—The period of imprisonment, to which the juvenile is sentenced by the judge, is prescribed to be passed in strict separation. But the reformatory institutions themselves are in no way bound to follow any prescribed rule, with regard to the method of education to be used in them.

9th—Compulsory detention in the reformatory schools is secured by a power given to punish the escape of a juvenile by six months' imprisonment, in

separation ; and any person harbouring a juvenile who shall so escape shall be liable to a penalty not exceeding five pounds.

10th—The managers of any reformatory school, previous to making application for the discharge of a juvenile offender committed to their charge, may place him on trial with some trustworthy person on licence, but the discharge from such school, within the period of the sentence of the judge, must be by order of the Chief Secretary of the Lord Lieutenant.\*

Besides the different forms of treatment for invalids, juveniles, and female convicts, the latter of whom

\* This act is nearly identical with that in force for the last four years in England, and promises to be a valuable adjunct to the penal code of the country. In it the deterrent principle is preserved in its integrity, as the offender undergoes the full punishment for his offence, but without further contamination, and in the strict separation of cellular imprisonment. He is then, if he gives hopes for reformation, removed under the most favorable circumstances to a reformatory school, and ultimately he is discharged on licence with all the advantages to be obtained by a patronage society. The act very properly does not define the amount of punishment for the offence, which may be for any number of months or years, or even penal servitude, should the judge think it desirable, the only limitation being that the punishment cannot be less than fourteen days' imprisonment in strict separation. The period to be spent in the reformatory school and on licence is, on the contrary, limited to not less than one or more than five years, although the time to be spent relatively in each stage is not defined, but depends entirely on the reformability and training of the individual; for instance, a boy sentenced to five years in a reformatory may be discharged on licence at the end of six months, should his reformation be effected and a suitable situation offer, as the latter part of the sentence is not punitive, but simply reformatory.—*Translator.*

we shall treat of in the next chapter, the Irish Directors seem to contemplate the introduction of a peculiar prison discipline for so-called incorrigible convicts. By these are not meant convicts who relapse into crime, but those who either shew themselves perfectly unmanageable, or are totally non-impressible. [Captain Crofton estimates that the number of incorrigibles under both those heads amounts altogether to 25 per cent. of all the convicts.\* For the reformation of these Rev. Mr. Shipley says, page 26 :—“That for such persons earnest and religious self-devotion could effect much.” This is not so easy a matter as he thinks. The means to be adopted for so praiseworthy an object have unfortunately, I fear, not been yet devised.]

As a connected system for the treatment of this class of prisoners has not been developed, it would be useless to enter here into an examination or justification of such a system.

\* By reference to Captain Crofton’s evidence before a committee of the House of Commons, it will be seen that in his estimate of 25 per cent. he included all not eligible for intermediate prisons and likely to relapse, incorrigibles, &c.; and this estimate, he considered, might be considerably reduced. See evidence.—*Translator.*

## CHAPTER XV.

## FEMALE CONVICTS.

GRANGEGORMAN, Newgate, and Cork prisons are appropriated to the reception of female convicts. That so many prisons should be required for women, as compared with the three pénal dépôts for men, cannot fail to strike us at once.\* Nowhere, perhaps, does the proportion between the sexes with regard to crime shew more unfavorably for women than in Ireland, for, whilst in proportion to male offenders the number of female convicts in most countries fluctuates generally between sixteen and twenty women to every hundred men, in Ireland the number of female convicts amounts to nearly forty-two for every hundred males.† On the 1st January, 1858, the

\* It appears from the Fifth Report of the Irish Directors that these prisons are no longer used as convict dépôts; and that the prison at Mountjoy contains all the female convicts in Ireland.—*Translator.*

† The author not having had an opportunity of consulting the latest criminal statistics of Ireland, has made his calculations from the relative numbers of the few convicts of both sexes in the country, otherwise he would have come to a different conclusion with regard to the amount of crime amongst Irish females. The population of Ireland was, according to the last census, 6,552,210, with an excess of 271,084 females. In 1858, according to the Criminal Tables, page xi, one female in every 2,101 inhabitants was sent to trial for criminal offences, and about one in every 4,000 was convicted, the crimes in two cases out of every three being simple larceny without violence, showing that they were caused by poverty.

In Ireland employment for women is difficult to be obtained,

Irish convicts numbered 674 females and 1,603 males.\*

Grangegorman and Cork prisons are managed according to the system of associated imprisonment, which is carried out with very little deviation, according to the same regulations as in the dépôts for the men. It is, however, a rule in the Cork prison that the women should undergo four months' cellular imprisonment.† The classification according to conduct, by

and when in distress they are impelled to seek relief by having recourse to theft, and thus at once fall within the power of the criminal law; whilst in most other countries they rather, in the first instance, try to support themselves by the wages of sin, and, perhaps, never come to be included in the statistical tables of punishable criminals. According to the most reliable authorities, amongst others Mr. Talbot, Secretary to the Society for the Protection of young Females, there are 80,000 of the latter class in London, being, according to a recent work, equal to one-sixth of the female population. See "The Sin of Great Cities." (London: Bennett, 1859).—*Translator*.

\* According to the last Report the numbers were 1,187 males and 444 females.—*Translator*.

† The arrangements in these temporary dépôts were necessarily incomplete, as appears from the Directors' reports. At present the system pursued in Mountjoy female prison is, as we learn from the fifth report, as follows:—"The prisoners, after conviction, are placed in the probation class, and afterwards removed into the third class; during this time they work entirely in their cells. When promoted to the second class, they are permitted to work with the doors of their cells open, and the first class, and advanced class only, work in association in the laundry and cleaning department, and at needlework; a class of 100 has been formed for tailoring, to make up slop coats, vests, trousers, &c.; some few are employed as stokers, &c., at the boilers, and heating apparatus of the prison. The refractory prisoners are now altogether separated from the rest of the prisoners, so that,

marks, is the same as with the men. It has been remarked, in many instances, that the silent system is much more difficult to enforce with women, because, not only is a system of opposition less successful with them than with men, but also the disciplinary punishments suited to women are necessarily more limited from the peculiarity of the female character. It also appears, from one of the reports of the officers, that a separate classification of Irish female convicts is required; such as are from the country districts being much less corrupted than those from towns, and nearly seven-ninths of the disciplinary punishments for breach of prison rules are incurred by the latter class.

Newgate prison was fitted up for female convicts in 1857. It contains 63 cells, where prisoners are confined in separation. It appears from the reports concerning this prison, that cellular imprisonment does not exercise an injurious effect on the female character, and no single case of insanity was observed to result from it; while, on the other hand, it has been repeatedly shown that the use of common dormitories exercises as pernicious an effect on females as on men. [Several prisoners, after the expiration of their period of separation, expressed a wish to return to their cells. See Fourth Report, page 9.]

in isolation, their wayward tempers may calm down, and, when necessary, receive from the Medical Officer the special medical treatment which their cases may require." See Fifth Report, page 88.—*Translator.*

In all the female convict depôts the secular instruction given is according to the Irish National School system. There is, therefore, no separation of creeds, but the Catholics have the advantage of instruction in their religion by religious sisterhoods, who visit the prison with the greatest zeal, and exercise a most decided reformatory influence over them, an assistance which the adherents of the Protestant church have not.\* The sisters of charity give instruction for two hours on week days, and four hours on Sundays.

The question, how to make a suitable provision for females discharged from prison, is beset with many difficulties. The obstacles to be overcome are twice as great with them as with regard to males, because the sphere of action for female employment is much more limited, the wages considerably less, and the temptations to an immoral course of life much more powerful.

\* It will be seen by the fifth report that the Protestant convicts have the same advantages of lady visitors of their own persuasion, "who attend four days in each week to impart religious and moral instruction to the Protestant prisoners." On this subject the Rev. David Stuart, Protestant chaplain, says :

"On those days of the week on which I do not regularly attend, benevolent ladies of considerable experience attend, in pairs, among whom the prisoners are allocated, so that each prisoner is presented once in each week, and always to the same lady. The prisoners appear to feel that an interest is taken in them, and they are evidently interested in our efforts for their improvement. Some are intelligent. The attention of almost all to the instructions given is marked, and the testimony of the superintendent and principal matron is, that our efforts have been attended with success, and that this is evident from the conduct and demeanour of the Protestant prisoners in general." See Fifth Report, page 95.—*Translator.*

When we consider the great numbers of able-bodied men who are yearly forced to leave Ireland in search of employment in the manufacturing districts of the north and west of England, we must expect that it would be very difficult to obtain employment for the large number of female convicts found in Ireland, and, consequently, particular exertions are required to succeed in effectually removing the proximate causes from which their crimes proceed ; and in proportion as the difficulty for women to return to a well-regulated course of life is very much greater than for men, in the same proportion is the necessity more urgently demanded for making a proper provision for them. [It appears from Colonel Jebb's Report for 1856-7, England, that the annual proportion of all recommittals for England and Wales generally, was for males, 31·3 per cent., and for females 42·5 per cent., showing the same apparent proportion between the sexes. See Report, page 87].

It is true that the law enables tickets-of-licence to be given to all without distinction of sex ; nevertheless, a marked difference is apparent in the effects produced ; and every view of the subject leading us to expect favorable results in the case of men shows that with females the effect is most unsatisfactory.\* It therefore

\* The author appears to have formed this opinion from the evidence given before the Transportation Committee of 1856, with regard to licences granted to women in England. Tickets-of-licence for women unassisted must necessarily be most unsatisfactory, from the utter impossibility of their obtaining employment, and their unprotected state. When, on the contrary,

seems evident that the stage between imprisonment and full liberty must, in the case of the latter, be circumscribed by particular means to protect against relapses.

The reasons which exist for the establishment of an intermediate stage between the prison and liberty for men apply with much greater force in the treatment of women. The aversion of the public to give employment to discharged female convicts is twice as strong as that with regard to men, because in the great majority of cases female criminals will be regarded as women of abandoned character, and also because female servants come in closer connection with the domestic concerns and the every-day life of the family. (According, however, to Captain Crofton's evidence before the Parliamentary Committee of 1856, the Irish female convicts differ in an important manner from those of England. He says—"our class is not "the same as in England, the majority of them are "not of immoral character as in England." See Parliamentary Report on Transportation, 1575.)

No intermediate prison, however, has been established for women in Ireland, notwithstanding these women in Ireland are released from a refuge on licence, the case is quite altered, as they do not leave the refuge until a situation is procured for them, where the benefits of the controlling power, which conditional liberty, under surveillance, exercises over the men, is obtained for them in even a greater degree than is the case with regard to male convicts. The managers of the Refuge here take the place of the police, and the powerful influences of patronage societies, as described by the author, are brought to bear with the best results.—*Translator.*

arguments in favor of such a stage of prison discipline; but the administration, trusting to the support of private societies, has directed its attention to the establishment of refuges, where female convicts receive a suitable training to qualify them for the performance of household duties, and where, at the same time, the confidence of the public in them is won in the same manner as by the intermediate prisons for men.\*

It has already been shown that there is an immense fundamental difference between a refuge for women and an intermediate prison for men. The one is a species of imprisonment, while the other is a period of liberty; but in other respects it is sought to make the refuges and the intermediate prisons as much as possible equal and similar.† The Government pays, in like manner as in the juvenile reformatory schools, a weekly stipend of 5s. per week for every woman who is placed in them. With respect to these asylums, the Protestant societies appear to have anticipated the Catholics by a long period, at least a Protestant institution for the purpose has been in the receipt from Government for the last fifteen years

\* That this has been the result is shown by the number of female convicts who have been employed as domestic servants since the establishment of refuges in Ireland, and who continue to give satisfaction to their employers.—*Translator.*

† It will be seen by note at page 93, that this difference is only in name. The Irish Refuge appears to be in principle as perfect an intermediate prison as that for the men. The discipline is as severe, the industry and moral teaching as great, and the powers of self-control are brought into play by the withdrawal of external restraint equally in both.—*Translator.*

of a considerable sum (£50 yearly), without, however, a single convict having been sent to it. [According to the Fourth Report of the Directors, Ireland possessed, in 1857, three refuges, one at Golden Bridge (Catholic), and two others at Cork and at Harcourt-road, Dublin, (both Protestant), and up to the time of writing the report, 68 women had been received into the former, and eleven into the two latter.\*]

\* Up to March, 1859, 232 women had been received into these refuges. The Directors say—"They have been thus provided for :—*Golden Bridge*.—129 have left; 79 remain in the Refuge; emigrated, 40; sent to situations, 27; returned to husbands and families, 20; to parents and friends, 24 (6 of these are likely to relapse); 5 to Magdalen Asylum; married, 3; sent back to prison, 9; escaped, 1; total, 129. *Cork*.—3 have entered, and have obtained employment. *Harcourt-road*.—21 have entered; 9 remain in the refuge; 10 went to situations and returned to their families; 2 sent back to prison. Only two have been reconvicted and sent to the convict prisons, and the information with regard to these cases may be considered positive, and therefore satisfactory. It is a subject of sincere gratification to us to be enabled to report results far exceeding what we ever anticipated. By means of 'individualization' a large number of women, far advanced in criminal courses, have been thus returned to the community to lead honest and industrious lives; when at liberty a protecting hand has still been with them—the weak have been supported, the over-confident cautioned. Any praise we could bestow on the ladies who are accomplishing this great work would, in comparison to their labor and self-denying devotion, be, indeed, but feeble. It is, however, a work in which a nation may well glory. Undeterred by rough and repulsive manners, the stamp of wicked courses strongly marked in the countenance of the many, these hourly labors are carried on—these struggles with ill-regulated and abandoned minds—each evil propensity combated with, again and again, until replaced by other and

The means by which prisoners are transferred to the refuges is rather peculiar. Those who, during their imprisonment, have conducted themselves well, receive tickets-of-licence, under a condition of residing in a particular institution named, but should they misconduct themselves, or what in this case means the same thing, should they not conform with the greatest exactness to the rules of the institution during their nominal "conditional liberty," their licenses are revoked, and they are re-committed to prison for the full period of their sentence. This method of removing prisoners to a refuge by licence, in Ireland, demonstrates the pliability with which the forms of administration can be modelled, for the law which introduced conditional liberty by tickets-of-licence knows no other condition than "good conduct." The compelled residence in a fixed place or institution is an administrative addition, at which the Parliamentary Committee of 1856 seemed somewhat surprised. Even the very name, "Licence to be at large," is contradictory to the limitation adopted in Ireland.\* By their very nature, therefore, these refuges purer desires, ultimately, to restore to the many that self-respect, without which the future career of a woman must, indeed, be a hopeless one." See Fifth Report of Directors, page 19.—*Translator.*

\* The author appears not to have seen the act of 1853. The words of the 9th section are—"A licence to be at large in the United Kingdom and the Channel Islands, *or in such part thereof respectively as in such licence "shall be expressed"*"—"*and upon such conditions, in all respects, as to her Majesty shall seem fit.*" The evidence before Parliamentary Committee in 1856 shows

may much more be considered as real intermediate prisons than as refuges. It is even probable that in those institutions, where the observance of the rules is to be enforced by the threatened withdrawal of the licence, more severe discipline and greater restraint might be established than by any means in use for the purpose in a Government intermediate prison.\* [A refuge has lately been established at Fulham, in England, under the direct administration of the State, and is therefore, as Colonel Jebb asserts, a true intermediate prison for female convicts of a less penal character than an ordinary prison ; still this institution bears the name of a refuge, a further proof of the confusion of expressions on the subject. See Colonel Jebb's Report for 1856-7, page 55.

This question of the use, or even the necessity of refuges, should consequently in no way be confounded with the consideration whether the solving of the great social problem, attempted in Ireland in connection with conditional liberty, may be considered successful. The endeavour to put a restraint on perfect

how this restriction has been, to a certain extent, acted on in some cases in England. In the colonies the terms of ticket of licence were—"provided he remains within the limits of a certain prescribed district, and conducts himself well," which licence was again changed in consequence of good conduct into a conditional pardon, with the limitation, "provided he shall not appear in the United Kingdom before the expiration of his sentence."—*Translator.*

\* This is found to be the case in practice. The observations of the author, at page 92, are equally applicable to women in Irish refuges.—*Translator.*

free will, which must be considered as the main principle which regulates the reception of convicts into refuges, and the forced observance of the discipline of the house by exterior coercion, that is to say, by the threat of being brought back to prison, can at most be justified by the local condition of Ireland, and is not, from its intrinsic merits, a principle for imitation.\*

The great aversion everywhere displayed to the employment of discharged female convicts may be inferred from the fact, that even in Western Australia, where the great inequality in the number of the sexes is so much complained of, the colonists continue to oppose the admission of female convicts into the colony.

\* The author was not aware that this principle is strictly in accordance with the law of England, and has been successfully tested, after being for many years in use at Parkhurst convict prison, where, under 1 & 2 Vict. chap. 82, England, young offenders receive conditional pardon under precisely similar circumstances—“*of placing themselves in a charitable institution, and should they abscond, or not conform to the rules of the society, they forfeit all benefit of such pardon, and are remitted to undergo the residue of their original sentence as if no such pardon had been granted.*” See evidence before Parliamentary Committee, on Juveniles, in 1852, qu. 14, 19, 20.—*Translator.*

## CHAPTER XVI.

## CONCLUDING REFLECTIONS.

HAVING now finished our review of the Irish convict prison system, we shall briefly recapitulate the principal points to which we alluded in our preface and introduction.

Even the most cursory glance at the general characteristics of this system will necessarily satisfy us that, instead of it having failed to accomplish its objects, during the short period of time which has elapsed since the passing of the Irish Convict Prisons' Act,\* it has proved itself to be more effective than any other which preceded it. The facts which have been published, and which carry particular weight from the circumscribed boundaries of Ireland, show that since 1854 the number of convictions for crime has progressively diminished, and that in a steady and striking manner, for while, in 1853, there were in Ireland 1,013 convictions, during the three following years they gradually decreased to the number of 389. [The numbers convicted are as follows :—in 1850, 1,158 individuals ; in 1851, 1,864 ; in 1852, 1,358 ; in 1853, 1,013 ; in 1854, 692 ; in 1855, 518 ; in 1856, 389.]

Although the extraordinary diminution in the number of convictions in 1854, as compared with the preceding years, and the still continuing favorable

\* It has been now tested by five years' experience.—*Translator.*

statistics on the subject, may be attributable in part to the wretched condition of the Irish prisons previous to that time ; nevertheless, that diminution tells strongly in favor of the present system. If we admit that the former state of prison management was so confessedly deficient as to be, perhaps, a positive source of crime, and that the abandonment of it operated even more beneficially than the influence of a new system, we must also take into account, that previous to 1853 but few of those convicted remained in Ireland, as they were removed by transportation to a penal colony, so that none of the class who would be most likely to relapse were, as at present, included in the re-convictions.\*

Whatever may have been the cause which has contributed to the diminution of crime in Ireland, one thing is certain, that the repressive and deterring influence of penal legislation has in no way been weakened, or set aside, by the system now in force.

Still more striking conclusions may be drawn from the important facts contained in the undoubted statistical information, which has been obtained from private persons, who have convicts in their employment, as well as from the reports

\*In 1851, 1,082 convicts, and in 1852, 1,296 convicts were sent to penal colonies, making a total of 2,388 offenders weeded out of the criminal population of Ireland during the two years preceding 1853, besides 604 in that year ; and in the same proportion in previous years. See Inspector's Report for 1851-2.—*Translator.*

which have been, from time to time, furnished by the police inspectors. From these facts, and the opinions expressed at public meetings and in newspaper articles, besides the frequent applications made by employers for discharged convicts, may be inferred how powerful a reformatory influence is attributed to the new system, and how favorable a reception it has met with in Ireland. Indeed, on this subject, we find an almost complete unanimity of opinion prevailing in a country which is more productive of contention, party feeling, and agitation, with regard to social and religious exclusiveness, than any other.

Making allowance for deficiencies in details, and admitting that the system is still susceptible of improvement, it must, nevertheless, be confessed that the Irish method of treating convicts, at the same time that it satisfies the indispensable and never-to-be-forgotten claims of justice, by means of the punishment it inflicts, leads the criminal through a series of gradations, to the great object which we have in view—the reasonable use of his liberty on discharge. Whether we consider the union of those different stages, of cellular imprisonment, compulsory labor in association, and intermediate establishments, as one combined system of punishment, or as a gradual diminution of its pressure, in neither case can it be regarded as contradictory, or opposed to the existence of real punishment, or inconsistent with the ends for which it is inflicted.

A fact which is universal in the history of penal

repression, and which constantly reappears in the development of criminal legislation, is found equally to apply in carrying out the system of coercion, to which each individual criminal is subjected. The history of the penal code of every nation shews, that forms of punishment seek a milder appearance, in proportion to the progress of civilization, and that the increasing development of general morality, in a nation, brings with it ideas of what is right in itself, and the means by which that right may be reduced to practice.\* The period of time, which elapses between

\* The statistics of crime in Ireland demonstrate the correctness of the Author's views on this subject. *Crime rapidly diminished when the simply-deterrant element ceased to predominate.* Up to 1820 all crimes, from murder to larceny of 5s. privately in a shop, were punishable with death. Since then the rigours of the criminal code have been, in each successive parliament, gradually relaxed, until the present time, when capital executions are rare in Ireland, being reduced from 101, in 1822, to 4, in 1858. There has not been one in the city of Dublin since February, 1842. In 1831 there was one criminal for every 808 inhabitants. In 1841 one for every 880 inhabitants, and in 1858, one for every 1,795 inhabitants in Ireland. Mr. Redgrave remarks, that "if the offences tried in England and Wales in 1841 had been tried under the laws of 1831, the 80 capital sentences passed in that year would have been increased to 2,172."

It was only in the year 1772 that pressing to death for refusing to plead was abolished in England. Amongst other cases we find that Matthew Ryan, when on his trial at Kilkenny assizes, 1740, "affected lunacy, and refusing to plead, was pressed to death two days subsequently in the market-place."

We read in the *Gentleman's Magazine* for 1788 a detailed account of the execution of Margaret Sullivan, who was condemned to be burnt alive in front of Newgate, London, on the 25th June, 1788, "for feloniously colouring divers pieces of base metal of the size of shillings and sixpences, so as to resemble the current coin."

the commencement and the end of the imprisonment, contains the history of the moral cultivation of each individual criminal subjected to its influence. If we admit it to be true, that in the present time also there is a general progress towards improvement in the condition of the individual undergoing punish-

*“As soon as she came to the stake, she was placed upon a stool, which was instantly removed from under her and she left suspended, when the faggots were placed round her, and being set on fire, she was soon consumed to ashes.”*

During the eighteenth century many such executions are recorded. Even a child eleven years old, Elizabeth Hicks, was executed 17th July, 1716, for witchcraft. Basil Montague gives a speech of Sir W. Meredyth in Parliament, 1777, in which is the following :—“ There lies at this moment in Newgate, under sentence to be burnt alive, a girl just turned fourteen ; at her master’s bidding she hid some whitewashed farthings behind her stays, on which the jury found her guilty as an accomplice. “ The master was hanged last Wednesday, and the faggots all lay ready ; no reprieve came till just as the cart was setting out, and the girl would have been burnt alive on the same day only for the humane but casual interference of Lord Weymouth.”

To reverse the picture, Béranger, in his valuable work, *De la Répression Pénale*, makes the following statement :—

“ In countries where executions are either abolished or seldom witnessed, the manners of the people become mild, and crimes deserving capital punishment extremely rare. In Tuscany, under the reign of the Grand Duke Leopold I., the punishment of death was virtually, and in fact, abolished from 1765. After 20 years’ trial, in order to prepare his subjects for its definitive abolition, Leopold published his celebrated penal code on the 30th November, 1786, in the preamble of which are these remarkable words, dictated, I repeat, by 20 years’ experience. ‘ We have ascertained with the greatest satisfaction, that mild punishments, when accompanied by the most exact vigilance in the prevention of crime, quickness in having the trial brought to a conclusion, and a promptitude and a certainty in having the

ment, then we should apply to the punishment of the prisoner, in each individual case, that general tendency to mildness which now prevails in penal legislation, and thus endeavour to soften gradually the punishment, in proportion to the progressive moral improvement of the person undergoing the sentence.

*“ real delinquents punished, very far from increasing the quantity  
“ of crime, has not only considerably diminished ordinary offences, but  
“ has rendered those of an atrocious character unheard of. We  
“ have, therefore, determined no longer to delay reforming the penal  
“ code, and definitively to abolish the punishment of torture and death  
“ as useless for the ends proposed by society.””*

“ After Leopold had quitted Tuscany, 1st March, 1790, on his election as Emperor of Germany, a fear (natural but ill considered) resulting from the outburst of the French Revolution, caused the re-enactment of the punishment of death in certain few cases; but during the entire period that his successor, Ferdinand III. remained in Tuscany, that is, until May, 1799, no capital execution took place in this State. ‘*Public opinion responded to the humanity of the laws. The horror of shedding blood spread through the population, and the manners of the people softened down to so great a degree, that on a certain day, not a single prisoner could be found in the prisons of the Archduchy.*’ Even a long time after the transformation of Tuscany into the kingdom of Etruria, and its re-union to the French Empire, this horror manifested itself when, on the first military execution under French law, *the population (of Florence) protested against blood being spilt by deserting their streets, shutting their shops, and the windows of their houses, and by every sign of grief.* During the entire day of execution the whole city was plunged in *the deepest mourning.*”—See Béranger, as above, p. 222.—Translator.

# APPENDICES.

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## APPENDIX I.

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*Lectures delivered in the Smithfield Reformatory Institution,  
in the year 1857.*

*January* 5-10.—Self-denial and Decision of Character. Canada and its Resources. Taxes. The Rivers, Lakes, and Mountains of the World. True Honesty.

*January* 12-17.—Conscientiousness respecting discharge of duty. The Employer and the Employed. The Drainage of Europe. The Atmosphere. Truth.

*January* 19-24.—Contentment. The Precious Metals. Western Australia and its Resources. Winter and its Blessings. Form of the Earth.

*January* 26-31.—Woods and Forests. Advantages of Self-government. A General Reformatory Address. Presence of Mind. Great Britain and her Colonies.

*February* 2-7.—Conscientiousness respecting the property of others. Gratitude due by the men of Smithfield to the English Government. The mysteries of the Deep. Temperance and the Cost of Drunkenness. The World of Plants.

*February* 9-14.—Conduct towards Superiors and Inferiors. Labour; its Claims and its Rewards. Who should Emigrate. Canada and her Resources. Truth.

*February* 16-21.—Conscientiousness as to Debt. Savings' Banks and their Advantages. Pursuit of Knowledge under Difficulties. Curiosities of Physical Geography. Emigration the Road to Prosperity and Independence.

*February* 23-28.—The Way to Wealth. Temperance; its Blessings and its Rewards. The Drainage of the World. The Atmosphere and its Uses. Australia and her Gold Fields.

*March* 2-7.—Gratitude and Ingratitude. The Wisdom and Goodness of God displayed in His Works. The Human Heart. The Ocean. New South Wales.

*March* 9-14.—Conscientiousness as to adhering to a Promise. The Precious Metals. Water. Honesty. The Use of Maps, and Geographical Terms, Explained.

*March* 16-21.—Sincerity and Insincerity. Holyday. Envy; its Miseries and Antidotes. The Human Frame. Habit.

*March* 23-28.—Self-service and Self-dependence. Idleness and its Miseries. The Creation. Everything in Nature conducive to the good of mankind. Winter an Emblem of Life.

*March* 30 to *April* 4.—Modesty. Revenge; Miseries of. Contentment; Happiness of. Industry. Conscientiousness respecting the Reputation of others.

*April* 6-11.—Conscientiousness in adhering to a Promise. The Air we Breathe. The Seasons. The Water we Drink. Nil.

*April* 13-18.—Pauperism: its Causes and Remedies. Self-examination; importance of. The Motions of the Earth. The Australian Colonies, their Rise and Progress. Independence; how to attain it.

*April* 20-25.—Physical Features of the Continents. Emigration—New South Wales; its Rise and Progress. Forgiveness of Injuries. The Vegetable Kingdom, No. 1. Geographical Terms—Latitude and Longitude.

*April 27 to May 1.*—The Adaptation and Distribution of Plants. Intemperance. Emigration, No. 2, Victoria. The Crown of Labour. Geography; its Divisions.

*May 4-9.*—Contentment and its Blessings. Size, Colour, and Pressure of the Ocean. Emigration and its Advantages. Marine Vegetation. Physical Feature of the Continents.

*May 11-16.*—Waves and Currents, and their Causes. Intemperance and its Miseries. The Drainage of the Continents. Our World in relation to the Universe. Nature a School for the Heart.

*May 18-23.*—The Poles, the Equator, and the Hemispheres. Causes and Effects of the Earth's Annual Motion. Respect due to Superiors. The Weight and Measurement of the Earth. Instability of Earthly Things.

*May 25-30.*—Temperance and its Blessings. Winds and Tempests. Canada and her Resources. Influence of the Sun on the Creation.

*June 1-6.*—Self-examination of Conscience. Emigration, New South Wales. Emigration, Victoria. Emigration, South Australia. Emigration, Canada.

*June 8-13.*—Scandal, the Mischief of. Peculiarities of the Sea. Manures and Rotation of Crops. The Continents, the Size and Forces that Raise them.

*June 15-20.*—Savings' Banks. Healthy Homes. Figure and Position of the Earth. Preparation of Land and Cultivation. Truth and Trust.

*June 22-27.*—What it is doing. (Smithfield). Necessity and Use of Air. Magnificence of God Displayed in the Creation.

*June 29 to July 4.*—Slander, Baseness of. Reformatory Address. Capital and Labour. Emigration, Advantages of. Labour, its Rewards.

*July 6-11.*—Power and Wisdom of God Displayed in the Ocean. Evening Hours, how to Spend them. Temperance; its Blessings. The Ocean; its Colour, Pressure, and Saltiness. Tides, Waves, and Currents.

*July 13-18.*—The Government of our Passions. Form, Magnitude, and Motions of the Earth. Nourishment and Growth of Plants. Physical Features of the Old World. The Culture of Green Crops; the Turnip.

*July 23-25.*—Industry, its Rewards. Food. Disease and Longevity of Plants. Annual Motion of the Earth, and its Causes. Climates. Providence of God manifested in the Distribution of Vegetables.

*July 27 to August 1.*—Self-Reliance and Self-Control. Emigration—New South Wales. The Soil we Cultivate. The Measurement of the Earth. Diseases and Sleep of Plants. Temperance and its Blessings.

*August 3-8.*—British Colonies—Australia. Air. Water. Truth, Falsehood, and Slander. Rotation of Crops. Fidelity in the Discharge of Duty.

*August 10-15.*—Parsnips, Carrots, and Mangel Wurzel. Reformation of Prisoners. Conscientiousness respecting the Property of Others. Formation of

Snow and Ice. Emigration and who should Emigrate. Rapidity with which Life passes away.

*August 17-22.*—Division of Character. Conscientiousness as to Debt. Thunder and Thunder Storms. The Apparent Motions of the Heavens. Peculiarities in the Vegetable Kingdom. Creation.

*August 24-29.*—Culture of Corn Crops: Wheat. The Atmosphere. British Subjects and British Laws. The Ocean—its Mysteries. Soils and their Treatment. Temperance and its Blessings.

*August 31 to September 5.*—Canada and her Resources. Figure, Density, and Temperature of the Earth. Industry and its Rewards. The Tides. Conscientiousness as to the Discharge of Duties. Winter an Emblem of Life.

*September 7-12.*—Agricultural Implements and their uses. Honesty, Contentment, and Happiness. Waves and Currents. The Seasons. Zones and Climates. Envy, its Misery and Antidote.

*September 14-19.*—Self-Service and Self-Dependence. Conscientiousness as to Fair Dealing. Drainage of the Continents. The Sun. Soil. Truth.

*September 21-26.*—Magnanimity. Latitudes and Longitudes. Man's Indifference to the Works of Nature. Australia; its Mines and Pasture Lands. The Growth of Trees. Forgiveness and Forbearance.

*September 28 to October 3.*—The Telegraph and its uses. Frugality and Contentment. How to observe the Heavens. Emigration; Canada and her Resources. The Creation. Life and Death.

*October 5-10.*—The Road to Wealth. Water. Reflections upon the Firmament. Sensibility of Plants. The Drunkard's Career. Contentment and Religious Repose of Mind.

*October 12-17.*—Self-Denial and Decision of Character. Tides and Currents. True Honesty. Winter and its Blessings. Presence of Mind. Temperance and its Blessings.

*October 19-24.*—New South Wales; its Rise and Progress. Physical Geography of the Continents, Outlines of. Presence of Mind; its Advantages. Human Frame. Domestic Happiness. Retrospect of our Lives. Bank and Fire-side.

*October 26-31.*—Man; his Happiness and Weakness. Self-service and Self-dependence. The Human Heart. English Navigation of the 18th Century. Emigration, Victoria. Grateful Remembrance of Past Mercies. Contentment and Religious Repose of Mind.

*November 2-7.*—Conduct towards Superiors and Inferiors. Ocean Beds and Ocean Gardens. Industry and Frugality. Currents and Climates of the Sea. Heroism. Benevolence. Care of God for His Creatures.

*November 9-14.*—Distribution of Man. The Cost of Drunkenness. Emigration; Sydney Past and Present. Biographhy; Lord Brougham and Demetz. Feeding and Management of Horses. The Seasons an Emblem of Life. Self-Control.

*November 16-21.*—The Atmosphere. Ocean Shells and their Inhabitants. The Colonies of Great Britain. Importance of Education to the Poor. Who should Emigrate. Magnanimity. Conscientiousness respecting the Property of Others.

*November 23-28.*—Conscientiousness respecting the Reputation of Others. Winds and Tempests. Endowment of God to Man. Philanthropists; Mrs.

Caroline Chisholm. Decision of Character. Filial Affection. Self-service and Self-dependence.

*November 30 to December 5.*—The Firmament. Benevolence. The Drainage of the Continents. Strength of Men. Heroism. Conscientiousness in keeping a Promise. God seen in His Works.

*December 7-12.*—Station and Dress. Great Women; Mrs. Somerville and Mrs. Stowe. Aborigines of Australia. Slander; its Evils. The Bee: its Life and Labours. Frugality. Reflections upon Self.

*December 14-19.*—The Human Mind. Plants and Animals of Australia. Procrastination. Private Duties of Life. Habit. Sincerity and Insincerity. Intemperance.

*December 21-26.*—Education; the kind most Useful. Life, Infancy, Youth, and Manhood. War; when Just and when Unjust. Hope; its Influence on the Mind. Palestine, Remarkable Places in. Slander and Envy.

*December 28 to January 2.*—The Independence of a Soldier's Life. Life; its Maturity and Decline. Emigration; the qualifications requisite in an Emigrant to ensure Success. Wise Sayings of Wise Men. Meditation on the Forthcoming Year. Old Age and Death. Instability of Earthly Things.

## APPENDIX II.

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### *Daily Routine of Duty for Convicts at Smithfield.*

- A.M. 5· 0 Ring bell, Fold Bedding, Clean Cells, and Unlock Cells.  
 5·30 Officers parade, Prisoners wash.  
 5·35 Assemble to Prayer—under the guidance of a chief warden.  
 6· 0 Ring bell, Prisoners commence labour.  
 8· 0 Breakfast, and Exercise.  
 8·40 Officers parade, examine men, books, orders, &c.  
 8·45 Ring bell, Prisoners resume labour.
- P.M. 2· 0 Ring bell, Dinner and Exercise.  
 2·55 Officers parade.  
 3· 0 Ring bell, Prisoners resume labour.  
 5· 0 Lecture.  
 7· 0 Supper.  
 7·30 Commence reading.  
 8·45 Ring bell for Prayer, lock Cells.  
 9· 0 Out lights.

### APPENDIX III.

*Return showing the Proportion of Sick and Deaths to the Number of Prisoners in the Irish Convict Prisons for the years 1854, 1855, 1856, and 1857.*

## APPENDIX IV.

*Return showing the Cost of Maintenance, &c., of 100 Able-bodied Prisoners for six months (in two Iron Moveable Huts), with the value of their Labor.*

	Dr.	£ s. d.
Victualling, at 3s. 10d. per week,	. . . . .	498 6 8
Clothing, at 9d.	" . . . . .	97 10 0
Salaries,	. . . . .	£178 0 0
Rations,	. . . . .	35 4 0
Clothing,	. . . . .	13 10 4
	<hr/>	<hr/>
Share of Directors' Salaries, Officers' Expenses, &c.,	. . . . .	55 0 0
Medicines,	. . . . .	2 0 0
Fuel, 20 tons,	. . . . .	15 0 0
Proportionate amount of Gratuities chargeable on 100 Prisoners,	. . . . .	100 0 0
Rent, &c., Huts,	. . . . .	17 10 0
Soap,	. . . . .	5 8 0
Light,	. . . . .	4 0 0
Bedding, 2s. 6d. each per man, per annum,	. . . . .	6 5 0
Postage,	. . . . .	4 0 0
Books and Stationery,	. . . . .	7 10 0
Two Cooks, 26 weeks, each, 9s.	. . . . .	23 8 0
Contingencies.	. . . . .	10 0 0
	<hr/>	<hr/>
		£1,072 12 0
Balance, paying all expenses,	. . . . .	236 6 0
	<hr/>	<hr/>
		£1,308 18 0

*Cr.*

By Labour of 100 Prisoners, for 26 weeks, each, 9s.	. . . . .	1,170 0 0
Productive Labour of 6 of the Warders charged in Salaries, &c., of Officers, and who give their labour to the Public, as Carpenters, Artificers, &c.,	. . . . .	138 18 0
	<hr/>	<hr/>
		£1,308 18 0



THE following is an extract of a communication received by the translator from the author:—

BERLIN, 19th April, 1860.

“ I have perceived in your translation as great a knowledge of the German language as an exact understanding of the subject. The German criminal law has a peculiar scientific language and ideas which are wanting to the English, because in England speculative philosophy has never turned its attention to the task of penal legislation. I was therefore surprised that, from a method of expression strange to you, you have throughout rightly understood the meaning, and in general, as far as it was possible, rendered it into English. I am perfectly convinced that no learned jurist amongst your countrymen would have made a better translation.

“ With regard to some trifles, I would wish to add the following remarks :—

“ Page 10, line 20.—Omit “correct.” As a lawyer I could not acknowledge the writer’s line of argument to be correct ; on the contrary, by the words “salbungsvoll theologisch,” I wished to criticise his ideas and mode of expression as partial to his own peculiar religious views.

“ Page 14, line 22.—I have taken this statement from an old report of Sir Joshua Jebb.

“ Page 41, line 14.—For “criminal statistics” I would read, “history of the criminal classes.”

"Page 44, line 17.—I would add, "a consideration of extenuating circumstances;" so that the sentence would read, "a consideration of extenuating circumstances for a diminution of the punishment which the judge defers." Extenuating circumstances play a most important part with us on the continent.

"Page 68, line 13.—For "Christinia," read "Christiania."

"Page 93, Note.—I wish it to be distinctly understood that I consider the "Irish Refuges" to be by their very nature and working real intermediate prisons. See also my observations at pages 102 and 163; but I object to the name "refuges" as quite unsuitable. Asylums and refuges are similar, being institutions for the helpless only; while in the Irish establishments a certain amount of free will is exercised.

"Page 155, Note.—It would give me pain were it supposed that I entertain a prejudice unfavorable to the female portion of the Irish population. I merely refer in the text to the relative numbers of male and female convicts in Ireland.

"Page 163, Note.—I never doubted the legality of the proceeding to which this note refers; but, in my opinion, the expression "licence to be at large" is not compatible with compelled detention.

"(Signed), FRANZ VON HOLTZENDORFF."



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